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NOTICE

The undermentioned Gazettes of India Extraordinary were published during the week ending the 7th February 1951 :—

S. No.	No. and Date	Issued by	Subject
1	S. R. O. 132, dated the 31st January 1951.	Ministry of Home Affairs.	Orders issued by the President regarding reconstitution of certain Ministries.
2	S. R. Os 164 & 165, dated the 1st February 1951.	Ministry of Commerce and Industry	Inclusion of Sulphur in the Supply and Prices of Goods Act, 1950.
	S. R. O. 166, dated the 1st February 1951.	Do.	Appointment of an officer in connection with the Supply and Prices of Goods Act, 1950.
	S. R. O. 167, dated the 1st February 1951.	Do.	Certain directions issued by the Central Government regarding sulphur.
	S. R. O. 168, dated the 1st February 1951.	Do.	Rules made by the Central Government regarding sulphur.
	S. R. O. 169, dated the 1st February 1951.	Do.	Priorities fixed by the Central Government for cycle tyres and tubes.
	S. R. O. 170, dated the 1st February 1951.	Do.	Restriction imposed by the Central Government regarding raw rubber.
3	S. R. O. 171, dated the 3rd February 1951.	Ministry of Food and Agriculture	Amendment made in the Notification No. S. R. O. 100, dated the 22nd January 1951.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of this Gazette.

PART II—Section 3

Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).

MINISTRY OF LAW

New Delhi, the 31st January, 1951

S.R.O. 175.—In exercise of the powers conferred by clause (1) of article 299 of the Constitution, the President is pleased to direct that the following further amendments shall be made in the Notification of the Government of India in the

Ministry of Law No. F. 35-I/50-L., dated the 26th January, 1950, relating to the execution of contracts and assurances of property, namely:—

A. After Part XXIV of the said Notification, the following Parts shall be inserted, namely:—

“XXV.—In the territories under the administration of the Chief Commissioner, Bilaspur, as regards contracts etc., not hereinbefore specified:—

1. All deeds, contracts and other instruments connected with the sale of forest produce or leases of reserved forests for cultivation:—

- (a) if the amount or value does not exceed Rs. 5,000; *by the Forest Officer, Bilaspur; and*
- (b) if such amount or value exceeds Rs. 5,000; *by the Forest Officer, Bilaspur, with the approval of the Chief Commissioner, in each case.*

2. Deeds, contracts and other instruments relating to expenditure on conservancy and works executed by the Forest Department:—

- (a) if the amount or value does not exceed Rs. 1,000; *by the Forest Officer, Bilaspur; and*
- (b) if such amount or value exceeds Rs. 1,000; *by the Forest Officer, Bilaspur, with the previous approval of the Chief Commissioner, in each case.*

3. (i) Contracts and other instruments connected with ferries, dues for grazing cattle, fisheries, *nuzul* buildings, spontaneous products and minerals, execution of minor works not under the Public Works and Forest Departments and the supply of necessities depots;

(ii) Contracts and other instruments in matters connected with the lease or sale of land;

(iii) Contracts relating to any matters falling within his ordinary jurisdiction;

(iv) Instruments of free grants of proprietary rights in land;

(v) Instruments whereby property is mortgaged to Government as security for loan; and

(vi) Instruments of exchange of land;

(a) if the amount or value does not exceed Rs. 5,000; *by the Collector, Bilaspur; and*

(b) if such amount or value exceeds Rs. 5,000; *by the Collector, Bilaspur with the previous approval of the Chief Commissioner, in each case.*

4. Deeds, contracts and other instruments relating to expenditure on original works:—

- (a) if the amount or value does not exceed Rs. 2,000; or in the case of repairs does not exceed Rs. 5,000; *by the Divisional Officer, Independent Sub-division, P.W.D.; and*

- (b) if such amount or value exceeds the aforesaid limits; *by the Divisional Officer, Independent Sub-division, P.W.D. with the previous approval of the Chief Commissioner, in each case.*

5. Contracts not hereinbefore specified; *by the Chief Commissioner.*

XXVI.—In the territories under the administration of the Chief Commissioner, Vindhya Pradesh, as regards contracts etc., not hereinbefore specified:—

1. All deeds and instruments relating to matters other than those specified in items 2 to 5 below; *by a Secretary to the Chief Commissioner.*

2. Contracts and other instruments for the supply of stores, clothing etc. (other than Police clothing); *by the Heads of Departments concerned.*

3. Contracts and other instruments in matters connected with the sale of forest produce of all kinds, if the amount or value does not exceed Rs. 50,000 or in the case of the sale of seedlac and shellac does not exceed Rs. 1,00,000; *by the Chief Conservator of Forests.*

4. Contracts and other instruments relating to expenditure on Conservancy and Works incurred by the Forest Department, if the amount involved does not exceed Rs. 10,000; *by the Chief Conservator of Forests.*

5. Contracts and other instruments relating to any other matter connected with their Departments (including mining leases), if the amount or value does not exceed Rs. 2,500 or in the case of a mining lease the annual rent fixed does not exceed Rs. 500; *by the Head of the Department concerned.*

XVII.—In the territories under the administration of the Chief Commissioner, Manipur, as regards contracts etc., not hereinbefore specified:—

1. All deeds and instruments relating to matters other than those specified in items 2 to 7 below; *by the Chief Commissioner.*

2. Deeds, Contracts and other instruments in matters connected with the sale of Forest produce of all kinds, if the amount or value does not in any case exceed Rs. 2,000; *by the Forest Officer.*

3. Contracts and other instruments relating to fisheries, lease or sale of land, execution of minor works not under the Public Works Department or to any matters falling within his ordinary jurisdiction; *by the Deputy Commissioner.*

4. Contracts for the supply of clothing, ration etc. for the Police; *by the Superintendent of Police.*

5. Contracts for the supply of articles for use in jails or regarding the sale of articles manufactured in jails; *by the Superintendent of Jails.*

6. Contracts for the supply of articles and medicines for use in hospitals; *by the Chief Medical Officer.*

7. Contracts for the supply of articles required for the use of any department and other instruments connected with the administration of that department; *by the Head of the Department concerned.*

XXVIII.—In the territories under the administration of the Chief Commissioner, Himachal Pradesh, as regards contracts etc., not hereinbefore specified:—

1. All deeds and instruments relating to matters other than those specified in items 2 to 5 and 7 to 9 below; *by the Chief Commissioner.*

2. Contracts and other instruments relating to matters connected with the administration of forests and the business of the Forest Department, but not relating to the purchase or sale or permanent acquisition of land:—

(a) if the amount or value does not exceed Rs. 2,000; *by the Divisional Forest Officer;*

(b) if the amount or value does not exceed Rs. 50,000; *by the Conservator of Forests; and*

(c) if the amount or value exceeds Rs. 50,000 but not Rs. 1,00,000; *by the Chief Conservator of Forests.*

3. Sanctions of petty leases for specified purposes, such as water mills, shops, timber depots:—

(a) upto Rs. 1,000/- per annum in each case for periods not exceeding 5 years; *by the Divisional Forest Officer;*

(b) upto Rs. 3,000/- per annum in each case for periods not exceeding five years; *by the Conservator of Forests; and*

(c) upto Rs. 5,000/- per annum in each case for periods not exceeding five years; *by the Chief Conservator of Forests.*

4. All deeds and instruments relating to the execution of works of all kinds by the Public Works Department, including instruments relating to the purchase, supply and conveyance or carriage of materials, stores, machinery etc., if the amount involved does not exceed Rs. 1,00,000/-; *by the Principal Engineering Officer.*

5. (a) Contracts and other instruments connected with ferries, dues for grazing cattle on places other than forests, fisheries, *nuzul* buildings, spontaneous products and minerals, execution of minor works not under the Public Works Department, and for the supply of necessary depots;

(b) Contracts and other instruments in matters connected with the lease or sale of land;

(c) Contracts relating to any matters falling within his ordinary jurisdiction;

(d) Instruments of free grants of proprietary rights in land;

(e) Instruments whereby property is mortgaged to the Government as security for a loan; and

(f) Instruments of exchange of land; *by the Deputy Commissioner or Secretary or Assistant Secretary to the Chief Commissioner.*

6. Contracts for the supply of clothing etc. for the Police; *by the Chief Commissioner.*

7. Contracts for the supply of articles for use in jails or regarding the sale of articles manufactured in jails; *by the Inspector General of Prisons, Himachal Pradesh.*

8. Contracts and other instruments for the supply of stores, clothing etc. *by the Heads of Departments concerned.*

9. Contracts and other instruments relating to matters connected with their respective departments (including mining leases); *by the Head of the Department concerned.*

XXIX.—In the territories under the administration of the Chief Commissioner, Kutch, as regards contracts etc., not hereinbefore specified:—

1. All deeds, contracts and other instruments in matters connected with grant of land, working and business of Public Works Department including Irrigation or General Administration of the State under Central P.W.D. Code, other than those specified in items 2, 4 and 5 below; *by the Chief Commissioner.*

2. (a) Contracts and other instruments connected with dues for grazing cattle on places other than canal banks, fisheries and execution of minor works not under the contract of the Public Works Department;

(b) Contracts relating to any matters falling within his ordinary jurisdiction;

(c) Contracts and other instruments in matters connected with the lease or sale of land;

(d) Instruments of free grants of proprietary rights in land;

(e) Instruments whereby property is mortgaged to Government as security for loan; and

(f) Instruments of exchange of land; *by the Collector of Kutch.*

3. Contracts for the supply of clothing etc. for the Police:—

(a) if the amount or value does not exceed Rs. 500/- in each case; *by the Chief Commissioner or Commissioner of Police, Kutch; and*

(b) if such amount or value exceeds Rs. 500/-; *by the Chief Commissioner.*

4. Contracts for the supply of articles for use in jails or regarding the sale of articles manufactured in jails; *by the Superintendent of Jails with the approval of the Collector, Kutch.*

5. Contracts and other instruments for the supply of stores, clothing etc.; *by the Head of the Department concerned.*

6. Contracts and other instruments in matters connected with prospecting and exploring licenses and mining leases; *by the Chief Commissioner.*

XXX.—In the territories under the administration of the Chief Commissioner, Bhopal, as regards contracts etc., not hereinbefore specified:—

1. All deeds and instruments relating to matters other than those specified in items 2 and 3; *by the Chief Commissioner.*

2. Contracts and other instruments for the supply of stores, clothing etc. (other than Police clothing); *by the Head of the Department concerned.*

3. Contracts and other instruments relating to matters (other than those mentioned in item 2 above) connected with their respective Departments:—

(a) in the case of any Department other than the Forest and Public Works Department, if the amount or value does not exceed Rs. 1,000/-; *by the Head of the Department concerned; and*

(b) in the case of the Forest and Public Works Departments, if the amount or value does not exceed Rs. 10,000/- in each case; *by the Conservator of Forests and the Chief Engineer, P.W.D., Bhopal, respectively."*

B. Existing Part XXV shall be renumbered as Part XXXI.

C. For existing Part XXVI, the following Part shall be substituted, namely:—

"XXXII.—In all other cases:—

All deeds and instruments relating to matters other than those hereinbefore specified; *by the Secretary or the Additional Secretary or a Joint Secretary, or where there is no Additional Secretary or Joint Secretary, a Deputy Secretary to the Central Government in the appropriate Ministry and in the case of the Parliament Secretariat by the Secretary of that Secretariat and in the case of the Union Public Service Commission, by the Secretary of the Commission."*

[No. F. 35-I/51-L.]

SHRI GOPAL SINGH, Dy. Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 5th February 1951

S.R.O. 176.—In exercise of the power conferred by Order XXVII, Rule 1 and 2 of the Code of Civil Procedure, 1908 (Act V of 1908), the Central Government is pleased to authorise the Collector of East Godavari who is acquainted with the

In the Court of District Munsiff
of Kakinada.

Union of India.....Plaintiff.

vs

Geddani Peramma
Geddani Ranganatha- } Defendants.
swamy.

facts of the marginally noted suit proposed to be filed by the Union of India against the marginally noted Defendants in the Court of the District Munsiff of Kakinada, to sign all pleadings and other papers on behalf of the Central Government in the said suit and also to verify the same and is further pleased to authorise the said Collector of East Godavari

to act for the Central Government, enter appearances, make applications and do all other acts in the said suit and all proceedings arising out of or connected with the same.

[No. 82/B-11]

By order of the Central Government,
M. A. HUSSAIN, Dy. Secy.

MINISTRY OF STATES

New Delhi, the 1st February 1951

S.R.O. 177.—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government hereby extends to the State of Tripura the Bengal Agricultural Income-tax Act, 1944 (Bengal Act IV of 1944), as in force for the time being in the State of West Bengal, subject to the following modifications, namely:—

(1) Throughout the Act—

- (i) for the words "Provincial Government" wherever they occur (except in sections 3 and 22), the words "Chief Commissioner" shall be substituted.
- (ii) except in the short title, for the word "Bengal" wherever it occurs, the word "Tripura" shall be substituted.
- (iii) for the words "High Court" wherever they occur, the words "the Court of the Judicial Commissioner in Tripura" shall be substituted,
- (iv) for the words "His Majesty in Council" the words "the Supreme Court" shall be substituted.
- (v) for the word "Crown" the word "Government" shall be substituted.

(2) In section 1—

- (i) for sub-section (2) the following shall be substituted, namely:—

"It extends to the whole of the State of Tripura".

- (ii) for sub-section (3), the following shall be substituted, namely:—

"It shall come into force at once".

(3) In clauses (1), (6) and (17) of section 2, for the words "British India" the word "India" shall be substituted.

(4) In section 3—

- (a) after the words "Financial year" the words and figure "beginning with the financial year ending on the 31st March 1951" shall be inserted.
- (b) in the proviso to the section, for the words "any Provincial Government" the words "any State Government" shall be substituted.

(c) in the proviso to the section, for the words "or any local authority" the words "including Government of Tripura" shall be substituted.

(5) In section 4—

(i) for the words beginning with "situated within Bengal" and ending with "the Bengal (Rural) Primary Education Act, 1930, respectively", the following words shall be substituted, namely:—

"situated within the State of Tripura and received by him within or without the State, including any kind of cess payable in respect of such land to such person".

(6) In section 6—

(i) for the words "any Local Cess or Education Cess" the words "any kind of cess" shall be substituted;

(ii) in sub-clause (ii) of clause (1), for the words "any local rate or cess including Education Cess" the words "any kind of cess" shall be substituted;

(iii) the proviso to Clause (2) shall be omitted;

(iv) sub-section (3) shall be omitted;

(v) in the Explanation under Clause (7), the words "and includes the Accountant General, Bengal, and any person auditing accounts under his direction and control", shall be omitted;

(vi) sub-section (8) shall be omitted.

(7) In section 7—

(i) in sub-clause (ii) of Clause (2), for the words "any local rate or cess including Education Cess" the words "any kind of cess" shall be substituted;

(ii) the proviso to clause (3) shall be omitted;

(iii) Clause (4) shall be omitted.

(8) In section 14, the words figures and brackets "(including the trustee or trustees under any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913)" shall be omitted.

(9) In section 21—

(i) for clause (a) of sub-section (1), the following clause shall be substituted, namely:—

"(a) the Commissioner of Agricultural Income-tax, Tripura to be appointed by the Central Government";

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Except the Commissioner, the other authorities specified in sub-section (1) shall be appointed by the Chief Commissioner, Tripura".

(10) In section 22—

(i) for the words "Provincial Government" the words "Central Government" shall be substituted.

(ii) in sub section (1), the following words shall be inserted at the end:—

"including a Judicial member who shall be a person who has exercised the powers of a District Judge, or who possesses such qualifications as are required for appointment to the Post of District Judge".

(iii) sub section (2) shall be omitted.

(11) After Section 22, the following proviso shall be inserted, namely:—

"The Commissioner of Agricultural Income-tax and the Appellate Tribunal shall be under the administrative control of the Chief Commissioner, Tripura".

(12) In sub-section (2) of section 28 for the figures "1945", the figures "1951" shall be substituted.

3) In sub-section (2) of section 49—

(i) for the word "Province" the word "State" shall be substituted.

(ii) the word "State" except in the phrase "Indian State" shall be omitted.

(14) In clause (ii) of sub-section (2) of section 58, the word "British" shall be omitted.

(15) Sub-sections (1) and (5) of section 64 shall be omitted.

BENGAL ACT IV OF 1944

THE BENGAL AGRICULTURAL INCOME-TAX ACT, 1944

[Passed by the Bengal Legislature.]

[Assent of the Governor-General was first published in the *Calcutta Gazette, Extraordinary*, of the 30th December, 1944.]

An Act to provide for the imposition of a tax on agricultural income derived from land situated in Bengal.

WHEREAS it is necessary to make an addition to the revenues of Bengal, and for that purpose to impose a tax on agricultural income derived from land situated in Bengal;

Preliminary

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Bengal Agricultural Income-tax Act, 1944.

(2) It extends to the whole of the State of Tripura.

(3) It shall come into force at once.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(1) "Agricultural income" means—

(a) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land revenue in India or subject to a local rate assessed and collected by officers of the Crown as such;

(b) any income derived from such land by—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in item (ii):

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind of any land with respect to which, or the produce of which, any operation mentioned in items (ii) and (iii) of sub-clause (b) is carried on:

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as dwelling house, or as a store house or other out-building;

- (2) "Agricultural Income-tax Officer" means a person appointed to be an Agricultural Income-tax Officer under section 21;
- (3) "assessee" means a person by whom agricultural income-tax is payable;
- (4) "Assistant Commissioner" means the person appointed as Assistant Commissioner of Agricultural Income-tax under section 21;
- (5) "Commissioner" means the person appointed to be the Commissioner of Agricultural Income-tax, Bengal, under section 21;
- (6) "company" means a company as defined in the Indian Companies Act, 1913 (VII of 1913), or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent or of an Act of the Legislature of a British possession or under a law of an Indian State, and includes any foreign association carrying on business in British India or owning or possessing any interest in land in Bengal whether such association is incorporated or not, and whether its principal place of business is situated in India or not, which the Provincial Government may, by general or special order, declare to be a company for the purposes of this Act;
- (7) "firm", "partner" and "partnership" have the same meanings respectively as in the Indian Partnership Act, 1932 (IX of 1932), provided that the expression "partner" includes any person who being a minor has been admitted to the benefits of partnership;
- (8) "Hindu undivided family" means a Hindu undivided family governed by *mitakshara* law;
- (9) "person" includes a Hindu undivided family, a firm, a company and the Ruler of an Indian State;
- (10) "Prescribed" means prescribed by rules made under this Act;
- (11) "previous year" means—
 - (a) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made, or if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have been so made up;
 - (b) such period as may be determined by the Commissioner in the particular case of any person or class of persons;
 - (c) in the case of income which is partially agricultural income from land and partially income chargeable under the Indian Income-tax Act, 1922 (XI of 1922), under the head "Business", and the business concerned has been newly set up in the financial year preceding the year for which the assessment is to be made, the period from the date of the setting up of such business to the 31st day of March next following, or to the last day of the period determined under sub-clause (b), or, if the accounts of the assessee are made up to some other date than the 31st day of March and the case is not one for which a period has been determined by the Commissioner under sub-clause (b), then at the option of the assessee, the period from the date of the setting up of such business to such other date;

Provided that when such other date does not fall between the setting up of such business and the next following 31st day of March it shall be deemed that there is no previous year:

Provided further that where in this clause an option is exercisable by the assessee it shall not be exercisable more than once except with the consent of the Agricultural Income-tax Officer and upon such conditions as such officer may think fit:

Provided further that where in this clause an option is exercisable by the assessee and he has been assessed after he has exercised such option it shall not be exercisable by him again so as to vary the meaning

of the expression "previous year" as the applicable except with the consent of the Agricultural Income-tax Officer;

Provided also that where the assessee is a partner in a firm, the expression "previous year" in respect of his share of the agricultural income of the firm means the previous year as determined for the assessment of the agricultural income of the firm;

- (12) "principal officer" used with reference to an Indian State, a company or any other association means—
 - (a) (i) the manager or agent in Bengal of the Ruler of the Indian State, or
 - (ii) the secretary, treasurer, manager or agent of the company or association; or
 - (b) any individual connected with the Indian State, company or association upon whom an Agricultural Income-tax Officer has served a notice of his intention of treating him as the principal officer thereof;
- (13) "public servant" has the same meaning as in the Indian Penal Code (Act XLV of 1860);
- (14) "received" used with reference to the receipt of the Agricultural income by a person shall include—
 - (1) receipt by an agent or servant on behalf of a principal or master respectively,
 - (2) receipts by other persons which are deemed to be his receipts under the provisions of this Act, and shall also include receipts of agricultural income by way of adjustment of accounts with any other person;
- (15) "Ruler of an Indian State" means the Ruler of such State in his public and official capacity;
- (16) "total agricultural income" means the total amount of agricultural income referred to in section 4 and computed in the manner laid down in this Act;
- (17) "total world income" means the sum of—
 - (a) the total world income as defined in the Indian Income-tax Act, 1922 (XI of 1922), and
 - (b) the total agricultural income as defined in this Act, and
 - (c) the agricultural income derived from land in India excepting Bengal; and
- (18) "written down value" means in respect of any irrigation or protective work, or any machinery, plant or other capital asset,—
 - (a) in the case of assets acquired in the previous year, the actual cost to the assessee,
 - (b) in the case of assets acquired before the previous year, the actual cost to the assessee less all depreciation allowable to him under this Act in respect of such work, machinery, plant or other asset as the case may be.

CHAPTER I

3. Charge of agricultural income-tax.—Agricultural income-tax shall be charged for each financial year beginning with the financial year ending on the 31st March, 1951 in accordance with and subject to the provisions of this Act, at the rate or rates specified in the Schedule in respect of the total agricultural income of the previous year of every individual, Hindu undivided family, company, firm or other association of persons and every Ruler of an Indian State:

Provided that where any property from which agricultural income is derived is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not, in respect of such property, be assessed as an association of persons, but the share of each such person in the agricultural income from the property shall be included in his total agricultural income:

Provided further that agricultural income-tax shall not be charged on the agricultural income of the Central Government or any State Government including Government of Tripura.

4. Total agricultural income.—Subject to the provisions of this Act, the total agricultural income of any previous year of any person comprises all agricultural income derived from land situated within the State of Tripura and received by

- Provided that in the case of an assessee who can produce his accounts audited and certified to be correct by an accountant, and at the option of such assessee recorded in writing the allowance shall be, instead of such sum, the actual cost of collection incurred during the previous year as

determined by the Agricultural Income-tax Officer on the basis of such accounts, subject to a maximum equal to twenty *per centum* of the total amount of rent or revenue which accrued to him in the previous year in respect of the land from which such rent or revenue is derived.

Explanation.—"Accountant" in this proviso has the same meaning as in clause (iii) of sub-section (2) of section 58.

Provided further that the assessee, having once exercised the option to claim the actual cost on the basis of his accounts as the allowance admissible as aforesaid, shall not be entitled in any future year to claim instead the alternative allowance admissible except with the previous sanction of the Assistant Commissioner;

- (8) in the assessment made for each of the three financial years ending on the 31st March, 1945, the 31st March, 1946, the 31st March, 1947, respectively, in respect of the cost of collection of such rent or revenue and in addition to the allowance specified in clause (7), if the total amount of the rent or revenue received by the assessee in the previous year exceeds the total amount of rent or revenue which accrued to such assessee in the previous year by more than five *per centum* of such amount accrued, a sum equal to one-fifth of the amount by which such amount received exceeds such amount accrued;
- (9) when rent derived from such land is rent in kind the cost incurred by the assessee—
- (i) in performing any process contemplated in item (ii) of sub-clause (b) of clause (1) of section 2 for rendering the produce which comprises such rent in kind fit to be taken to market;
 - (ii) in transporting such produce to market;
 - (iii) in maintaining in good repair any agricultural implements or machinery and in providing for the upkeep of cattle for the purposes of such process or transport;
- (10) any other expenditure of the assessee, not being in the nature of capital expenditure or personal expenditure, laid out wholly and exclusively for the purpose of deriving such agricultural income from such land

7. Computation of tax and allowances under the head Agricultural income from agriculture.—Agricultural income-tax shall be payable by an assessee under the head "Agricultural income from agriculture" in respect of all agricultural income derived from land referred to in sub-clause (b) of clause (1) of section 2 included in his total agricultural income and received by him in the previous year subject to the following allowances, namely:—

- (1) the cost incurred by the assessee in the previous year:—
- (i) in cultivating such land or raising livestock thereon;
 - (ii) in performing any process contemplated in item (ii) of sub-clause (b) of clause (1) of section 2 for rendering the produce of such land fit to be taken to market;
 - (iii) in transporting such produce or livestock to market; and
 - (iv) in maintaining agricultural implements and machinery in good repair and in providing for the upkeep of cattle for the purpose of such cultivation, process, or transport;

Provided that in the case of an agricultural income derived from land possessed by an individual or a Hindu undivided family and cultivated by such individual or by the members of such family with or without the aid of servants or hired labourers or of both, the allowance admissible under this clause shall, instead of such cost, be a sum equal to fifty *per centum* of the market value of the produce raised from such land;

- (2) any sum paid by him in the previous year on account of—
- (i) land revenue or rent;
 - (ii) any kind of cess, in respect of such land;
- (3) where his interest in such land is subject to a mortgage or other capital charge, the amount of any interest paid by him in the previous year in respect of such mortgage or charge, and where such land has been

acquired, reclaimed or improved by him by the use of borrowed capital, the amount of any interest paid by him in the previous year in respect of such capital;

- (5) in respect of the maintenance of any irrigation or protective work or other capital assets the amount paid in the previous year on account thereof.

Explanation.—"Maintenance" includes current repairs and includes also in the case of protective dykes and embankments all such work as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes;

- (6) depreciation at the prescribed rate in respect of any irrigation or protective work or other capital asset constructed or acquired after the commencement of this Act for the benefit of the land from which such agricultural income is derived or for the purpose of deriving such agricultural income from such land;
- (7) any sum paid by him in the previous year as premium in order to effect any insurance against loss of or damage to such land or any crops to be raised or cattle to be reared thereon;
- (8) in respect of any machinery or plant used exclusively for agricultural purposes which has been sold or discarded, the amount by which the written down value of the machinery or plant exceeds the amount for which the machinery or plant is actually sold or its scrap value;

Provided that such amount is actually written off in the books of the assessee;

- (9) any other expenditure of the assessee not being in the nature of capital expenditure or personal expenditure laid out wholly and exclusively for the purpose of deriving such agricultural income from such land;
- (10) any other sum which may be prescribed.

8. Computation of tax on mixed incomes.—(1) In the case of income which is partially agricultural income assessable under this Act and partially income chargeable under the Indian Income-tax Act, 1922 (XI of 1922), under the head "Business", agricultural income-tax shall be payable by an assessee in respect of the market value determined in the manner prescribed of any agricultural produce which has been raised by the assessee or received by him as rent-in-kind and which has been utilised as raw material in such business or the sale receipts of which are included in the accounts of the business, subject to any allowances which may be permissible under the provisions of this Act;

Provided that,—

- (a) where for the purposes of the assessment of income-tax under the Indian Income-tax Act, 1922, the market value of the said produce has been determined the market value as so determined shall be taken to be the market value for the purposes of this sub-section;
- (b) where there is a common charge on both agricultural income assessable under this Act and income chargeable under the Indian Income-tax Act, 1922, and such charge is an allowance permissible both under this Act and the Indian Income-tax Act, 1922, then, if for the purposes of the Indian Income-tax Act, 1922, the part of such charge which is to be deemed to be the allowance permissible under that Act has been determined under that Act, the remaining part of such charge shall be deemed to be the allowance to which agricultural income assessable under this Act is subject.

(2) Notwithstanding anything contained in this Act, in the case of tea [the plant *Camellia Thea* (Linn.)] grown in Bengal and sold by the grower himself or his agent after manufacture, the agricultural income derived therefrom shall, as long as for the purposes of assessment of income-tax under the Indian Income-tax Act, 1922, the income derived therefrom is computed under that Act in such manner as to include agricultural income, be deemed to be that portion of such income as so computed on which income-tax is not payable under that Act, and agricultural income-tax at the rates specified in the Schedule shall be payable on the whole of such agricultural income as so computed.

Explanation.—Where such income is derived from lands partially in and partially without Bengal, agricultural income-tax shall be levied under this Act on such portion of that income as is attributable to lands in Bengal according to the following principles, namely—

- (i) where the proportion of such income attributable to lands in Bengal has been determined for the purposes of the Indian Income-tax Act, 1922,

such apportionment shall be accepted as determining for the purposes of this sub-section the proportion of such income attributable to lands in Bengal;

- (ii) where the proportion of such income attributable to lands in Bengal cannot be determined by the method specified in clause (i) of this Explanation such proportion shall be determined in such manner as may be prescribed.

(3) For the purpose of the assessment of agricultural income-tax under this section or any rule made thereunder a certified copy of an order of an assessment made for the purpose of deriving agricultural income from land part of which is within and part without Bengal, such allowance shall be calculated as such proportion of the common payment as the agricultural income derived from the land within Bengal bears to the agricultural income derived from all the land both within and without Bengal in respect of which such common payment is made.

9. Computation of allowances where estates extend beyond Bengal.—Where an allowance admissible under sections 6, 7 or 8 is in respect of a common payment made for the purpose of deriving agricultural income from land part of which is within and part without Bengal, such allowance shall be calculated as such proportion of the common payment as the agricultural income derived from the land within Bengal bears to the agricultural income derived from all the land both within and without Bengal in respect of which such common payment is made.

10. Exemptions from assessment of tax.—Agricultural income-tax shall not, subject to the provisions of section 17, be payable on that part of the total agricultural income of a person which is—

- (a) any dividend which such person receives as a share-holder out of the agricultural income of a company which has paid or will pay the tax in respect of the said agricultural income or any agricultural income which he receives as his share of agricultural income of a firm or association of persons, which has paid the tax in respect of the said agricultural income;
- (b) any sum which he receives as a member of a Hindu undivided family the agricultural income of which has already been taxed;
- (c) any sum paid by such person—
 - (i) to effect an insurance on the life of such person or on the life of a wife or husband or minor child of such person or in respect of a contract for a deferred annuity on the life of such person or on the life of a wife or husband or minor child of such person;
 - (ii) where the assessee is a Hindu undivided family, to effect an insurance on the life of any male member of such family or of the wife or a minor child of any such member:

Provided that the aggregate of any sums exempted from assessment to agricultural income-tax under this clause shall not exceed one-sixth of the total agricultural income of the assessee.

11. Prevention of double relief.—In computing the amount of any allowance or relief from assessment due under sections 6, 7, 8 or clause (c) of section 10 no part of such allowance or relief shall be included which constitutes a ground for relief from Indian Income-tax under the provisions of the Indian Income-tax Act, 1922 (XI of 1922).

12. Inclusions to prevent evasion of tax.—In computing the total agricultural income of any individual for the purpose of assessment there shall be included—

- (a) so much of the total agricultural income of a wife or minor child of such individual as arises directly or indirectly—
 - (i) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart,
 - (ii) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual otherwise than for adequate consideration;
- (b) so much of the total agricultural income of any person or association of persons as arises from assets transferred otherwise than for adequate consideration to the person or association by such individual for the benefit of his wife or minor child or both.

CHAPTER III

Liability to assessment in special cases.

13. Liability of guardian, trustee, agent, receiver or administrator.—Where any person receives any agricultural income derived from land,

- (a) as a guardian, trustee or agent of any person being a minor, lunatic, idiot or person residing without Bengal, interested in such land or the agricultural income derived therefrom, or
- (b) as a receiver or administrator appointed by or under the order of any Court in respect of such land or the agricultural income derived therefrom.

any agricultural income-tax payable under this Act on such income shall be levied upon and recoverable from such guardian, trustee, agent, receiver or administrator in like manner and to the same amount as would be leviable upon and recoverable from any such person if in direct receipt of such agricultural income and such guardian, trustee, agent receiver or administrator shall be deemed to be the assessee in respect of the agricultural income-tax so payable by such minor, lunatic, idiot, person residing without Bengal, or other person, as the case may be, and all the provisions of this Act shall apply accordingly.

14. Liability of Court of Wards, Administrator-General and Official Trustees, etc.—In the case of agricultural income chargeable to agricultural income-tax under this Act derived from land which is received by the Court of Wards, an Administrator-General or an Official Trustee or any trustee or trustees appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise or a common manager the agricultural income-tax payable under this Act on such income shall be levied upon and recoverable from such Court of Wards, Administrator-General, Official Trustee or such other trustee or trustees or such common manager in the like manner and to the same amount as it would be leviable upon or recoverable from any person on whose behalf such agricultural income is received and all the provisions of this Act shall apply accordingly.

15. Rateable payment by guardian, trustee, etc.—Where the agricultural income received on behalf of any person by any trustee, agent, receiver, Court of Wards, Official Trustee or common manager referred to in sections 13 and 14 is part only of the total agricultural income of such person, the agricultural income-tax payable under this Act shall be assessed on the total agricultural income of such person and the amount of tax so assessed shall be levied upon and recoverable from such trustee, agent, receiver, Court of Wards, Official Trustee or common manager and such person rateably according to the portion of the total agricultural income of such person received by such trustee, agent, receiver, Court of Wards, Official Trustee or common manager, as the case may be, and the portion received by such person.

16. Residuary provisions for computation and recovery of tax under sections 13 and 14.—(1) In any case falling under the provisions of sections 13 and 14 where any agricultural income or any part thereof is not specifically received on behalf of any one person, or where the individual shares of the persons on whose behalf such income is received are indeterminate or unknown, the tax shall be levied and recoverable at the rate applicable to the total amount of such income.

(2) Nothing contained in sections 13 and 14 shall prevent either the direct assessment of a person therein referred to on whose behalf agricultural income is received, or the recovery from such person of the agricultural income-tax payable in respect of such income.

17. Tax deemed to be paid on others' behalf by companies, firms and associations.—A company, firm or other association of persons which has paid agricultural income-tax under this Act in respect of its agricultural income as such company, firm or association shall be deemed for the purposes of section 48 to have paid agricultural income-tax on behalf of the share-holders of such company, the partners of such firm or the members of such association, as the case may be, on such part of the agricultural income of every individual share-holder, partner or member as represents the portion of the agricultural income of such company, firm or association which is received by such share-holder, partner or member.

18. Liability of person deriving agricultural income jointly for himself and others.—(1) Save as provided for in sections 13, 14 and 17 if a person receives agricultural income derived from land and such income is derived partly for his own benefit and partly for the benefit of beneficiaries or wholly for the benefit of beneficiaries, agricultural income-tax shall be assessed on the total agricultural income derived from such land at the rate which would be applicable if such income had been derived solely for his own benefit, and agricultural income-tax at such rate shall be leviable upon and recoverable from such person in respect of such income.

(2) Any person receiving agricultural income as referred to in sub-section (1) may, before paying to any beneficiary any share of such agricultural income to

which such beneficiary is entitled, deduct from such share the amount of agricultural income-tax or its equivalent value in kind if such share is paid in kind rateably paid in respect of such share.

Explanation.—In this section “beneficiary” means a person entitled according to law to a portion of the agricultural income derived from such land.

19. Liability in case of discontinued firms or associations.—Where agricultural income is received by a firm or association of persons and the business of such firm or association is discontinued or such firm or association is dissolved every person who was a partner of such firm or member of such association at the time of such discontinuance or dissolution shall be jointly and severally liable to assessment on such agricultural income and for the amount of agricultural income-tax payable under this Act by such firm or association, and all the provisions of this Act shall, so far as may be, apply to such assessment.

20. Agents to include persons treated as such.—Any person employed by or on behalf of a person residing without Bengal, or through whom in the course of any business connection such person is in the receipt of any agricultural income upon whom the Agricultural Income-tax Officer has caused a notice to be served of his intention of treating such person as the agent of the non-resident person, shall for the purposes of this Act be deemed to be such agent:

Provided that no person shall be deemed to be the agent of a non-resident person unless he has had an opportunity of being heard by the Agricultural Income-tax Officer as to his liability.

CHAPTER IV

Income-tax Authorities and Appellate Tribunal.

21. Agricultural income-tax authorities.—(1) There shall be the following classes of agricultural income-tax authorities for the purposes of this Act, namely:—

- (a) the Commissioner of Agricultural Income-tax, Tripura to be appointed by the Central Government;
- (b) the Assistant Commissioner of Agricultural Income-tax, Bengal;
- (c) Bengal Agricultural Income-tax Officers.

(2) Except the Commissioner, the other authorities specified in sub-section (1) shall be appointed by the Chief Commissioner, Tripura.

(3) The Commissioner of Agricultural Income-tax, Bengal, shall in respect of the whole of Bengal exercise the powers conferred and perform the duties imposed on him by this Act and by such rules as may be prescribed.

(4) The Assistant Commissioner of Agricultural Income-tax, Bengal, shall exercise in respect of the whole of Bengal all the powers provided under section 34 and such powers of the Commissioner under this Act or the rules made thereunder, except the powers provided under section 37, as may be delegated to him by the Commissioner with the approval of the Provincial Government.

(5) The Bengal Agricultural Income-tax Officers shall, in respect of such areas as the Provincial Government may by notification determine, exercise the powers conferred and perform the duties imposed on them by this Act and by such rules as may be prescribed.

22. Appellate Tribunal.—(1) The Central Government shall from time to time appoint, as and when may be necessary for the purpose of hearing appeals preferred under section 36, an Appellate Tribunal consisting of three members including a judicial member who shall be a person who exercises the powers of a District Judge, or who possesses such qualifications as are required for appointment to the post of District Judge,—

(2) The Appellate Tribunal shall consist of one judicial member, one lawyer member and one accountant member as hereinafter defined,—

- (a) the judicial member shall be a person who has exercised the powers of a District Judge in Bengal or who possesses such qualifications as are normally required for appointment to the post of District Judge in Bengal;
- (b) the lawyer member shall be a barrister or advocate of the High Court of Calcutta or a pleader who has practised professionally for a period of not less than five years or an Agricultural Income-tax practitioner who holds a degree in law of any Indian University and has practised professionally for a period of not less than five years.

Explanation.—Agricultural Income-tax practitioner in this clause has the same meaning as in clause (iv) of sub-section (2) of section 58;

- (c) the accountant member shall be a person who has, for a period of not less than six years, practised professionally as a Registered Accountant

enrolled on the Register of Accountants maintained by the Central Government under the Auditors Certificate Rules, 1932:

Provided that the Provincial Government may appoint as accountant member of the Tribunal a person not qualified as required by this clause if the Provincial Government is satisfied that he is qualified in accountancy and has adequate experience of a character which renders him suitable for appointment to the Tribunal.

(3) The appointment of any member of the Tribunal shall be for such period as the Central Government may determine and the period so determined may be extended from time to time by the Central Government for such further period or periods as the Central Government may consider necessary.

(4) The judicial member shall be President of the Appellate Tribunal and during any period during which the appointment of a lawyer member or an accountant member is not made the President of the Appellate Tribunal shall for the purpose of the admission of appeals under section 36 be deemed to possess all the powers of the Appellate Tribunal.

(5) If the members of the Appellate Tribunal differ in opinion on any point, the point shall be decided according to the opinion of the majority.

(6) The procedure of the Appellate Tribunal in all matters relating to the discharge of its functions, including the place or places of its sittings, shall be as prescribed.

The Commissioner of Agricultural Income-tax shall be under the administrative control of the Chief Commissioner, Tripura.

CHAPTER V

Machinery of assessment

23. Certificate by company to share-holders receiving dividends.—The principal officer of every company shall at the time of distribution of dividends out of the agricultural income received by such company, furnish to every person receiving such dividend a certificate to the effect that the company has paid or will pay agricultural income-tax on the agricultural income which is being distributed in the shape of dividend and specifying such other particulars as may be prescribed.

24. Return of agricultural income.—(1) The Agricultural Income-tax Officer shall, on or before such date in each year as may be prescribed, give notice, by publication in such newspapers and in such other manner as may be prescribed requiring every person whose total agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income-tax to furnish, within such period not being less than sixty days as may be specified in the notice, a return, in the prescribed form and verified in the prescribed manner, setting forth (along with such other particulars as may be required by the notice) his total agricultural income during that year:

Provided that the Agricultural Income-tax Officer may in his discretion extend the date for the delivery of the return in the case of any person or class of persons and shall in the case of agricultural income assessable under section 8 allow such extension of such date as may be necessary to enable the assessee to file any certified copy of an assessment order under the Indian Income-tax Act, 1922 (XI of 1922).

(2) In the case of any person whose total agricultural income is, in the Agricultural Income-tax Officer's opinion, of such an amount as to render such person liable to agricultural income-tax, the Agricultural Income-tax Officer may serve a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth along with such other particulars as may be provided for in the notice his total agricultural income during the previous year:

Provided that the Agricultural Income-tax Officer may in his discretion extend the date for the delivery of the return and shall in the case of agricultural income assessable under section 8 allow such extension of such date as may be necessary to enable the assessee to file any certified copy of an assessment order under the Indian Income-tax Act, 1922 (XI of 1922).

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2), or having furnished a return under either of these sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

(4) The Agricultural Income-tax Officer may serve on any person who has made a return under sub-section (1) or upon whom a notice has been served under sub-section (2) a notice requiring him, on a date to be therein specified, to produce or cause to be produced such accounts or documents as the Agricultural Income-tax Officer may require:

Provided that the Agricultural Income-tax Officer may on reasonable grounds and on application being made to him in this behalf allow such accounts or documents to be produced on a date later than that specified in the notice:

Provided further that the Agricultural Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

25. Assessment.—(1) If the Agricultural Income-tax Officer is satisfied without requiring the presence of the assessee or the production by him of any evidence that a return made under section 24 is correct and complete, he shall assess the total agricultural income of the assessee, and shall determine the sum payable by him on the basis of such return.

(2) If the Agricultural Income-tax Officer is not satisfied without requiring the presence of the person who made the return or the production of evidence that a return made under section 24 is correct and complete, he shall serve on such person, a notice requiring him, on a date to be therein specified, either to attend at the Agricultural Income-tax Officer's office or to produce, to cause to be there produced, any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be the Agricultural Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Agricultural Income-tax Officer may require on specified points, shall, by an order in writing, assess the total agricultural income of the assessee, and determine the sum payable by him on the basis of such assessment.

(4) The powers conferred by sub-sections (2) and (3) shall not except with the permission of the Commissioner be exercised by the Agricultural Income-tax Officer in the case of agricultural income which is assessed under the provisions of sub-section (2) of section 8 and regarding which an assessee has submitted together with his return under section 24 a certified copy of an assessment order under the Indian Income-tax Act, 1922 (XI of 1922).

(5) If any person fails to make the return required by any notice given under sub-section (2) of section 24 and has not made a return or a revised return under sub-section (3) of the same section or fails to comply with all the terms of a notice issued under sub-section (4) of the same section or, having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of this section, or fails to produce before the Agricultural Income-tax Officer any order under the Indian Income-tax Act, 1922, or a certified copy thereof, which may be necessary under the provisions of this Act for the purpose of enabling any assessment to be made under section 8, such officer shall make the assessment to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment.

26. Set off of loss in computing taxable agricultural income.—(1) Where in any year under either head of agricultural income specified in section 5 it is computed that the sum on which agricultural income-tax is payable by the assessee is a negative quantity the assessee shall be deemed to have sustained a loss under that head to that extent and such loss shall be set off against the sum computed under the other head of agricultural income as that on which agricultural income-tax is payable in the same year.

(2) Where the total sum computed under both heads of agricultural income as that or which agricultural income-tax is payable by an assessee in any year, being a previous year not earlier than the previous year for the assessment for the year ending on the 31st day of March, 1951, is a negative quantity, the assessee shall be deemed to have sustained a loss to that extent in that year, and such loss shall be carried forward to the following year and set off against the sum on which agricultural income-tax is computed to be payable in such year, and if such loss cannot be wholly set off in such year the amount of such loss not so set off shall be carried forward in the same manner to the next following year and so on, but no amount of such loss shall be carried forward for more than six successive years.

27. Tax of deceased person payable by representative.—(1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge the agricultural income-tax assessed as payable by such person,

or any agricultural income-tax which would have been payable by him under the Act if he had not died.

(2) Where a person dies before the application of the notice referred to in sub-section (1) of section 24 or before he is served with a notice under sub-section (2) of section 24 or section 38 as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub-section (2) of section 24 or under section 38, as the case may be, comply therewith, and the Agricultural Income-tax Officer may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee.

(3) Where a person dies without having furnished a return which he has been required to furnish under the provisions of section 24 or having furnished a return which the Agricultural Income-tax Officer has reason to believe to be incorrect or incomplete, the Agricultural Income-tax Officer may make an assessment of the total agricultural income of such person and determine the agricultural income-tax payable by him on the basis of such assessment, and for this purpose may by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived, require from the executor, administrator or other legal representatives of the deceased person any accounts, documents or other evidence which he might under the provisions of sections 8, 24 and 25 have required from the deceased person.

28. Assessment in case of discontinued firm or association.—(1) Where agricultural income is received by a company, firm or association of persons and the business through which such agricultural income is received by such company, firm or association is discontinued in any year, an assessment may be made in that year on the basis of the agricultural income received during the period between the end of the previous year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the agricultural income so received in the previous year.

(2) Any person discontinuing any such business shall give to the Agricultural Income-tax Officer notice of such discontinuance within thirty days thereof, and where any person fails to give the notice required by this sub-section, the Agricultural Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of agricultural income-tax subsequently assessed on him in respect of any agricultural income of the company, firm or association of persons up to the date of the discontinuance of its business.

29. Change in constitution of a firm or ownership of business.—(1) Where, at the time of making an assessment under section 25 it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessment shall be made on the firm as constituted, at the time of making the assessment.

(2) Where a person carrying on any business in course of which agricultural income is received has been succeeded in such capacity by another person, such person and such other person shall each be assessed in respect of his actual share of the agricultural income of the previous year:

Provided that, when the person succeeded cannot be found, the assessment of the agricultural income of the year in which the succession took place up to the date of succession and for the year preceding that year shall be made on the person succeeding him in like manner and to the same amount as it would have been made on the person succeeded or when the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid.

30. Assessment after partition of a Hindu undivided family.—(1) Where, at the time of making an assessment under section 25, it is claimed by or on behalf of any member of a Hindu undivided family hitherto assessed as undivided that a partition has taken place among members or groups of members of such family, the Agricultural Income-tax Officer shall make due inquiry thereinto, and, if a certified copy of a decree of a competent Civil Court for partition of the joint family property or a document purporting to show that there is separate possession and enjoyment of such property is produced, and in the case of a document other than a certified copy of a decree the Agricultural Income-tax Officer is satisfied that such document has been acted upon by the parties thereof, or if the Agricultural Income-tax Officer is otherwise satisfied that the Hindu undivided family has ceased to exist as such and the agricultural income is being enjoyed separately by the members or groups of the members of such family in definite shares, he shall record an order to that effect:

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family.

Where such an order has been passed, the Agricultural Income-tax Officer shall make an assessment of the total agricultural income received by or on behalf of the joint family as such, as if no partition had taken place, and each member or group of members shall, in addition to any agricultural income-tax for which he or it may be separately liable and notwithstanding anything contained in clause (b) of section 10, be liable for a share of the agricultural income-tax on the agricultural income so assessed according to the portion of the joint family property allotted to him or it; and the Agricultural Income-tax Officer shall make assessment accordingly on the various members and groups of members in accordance with the provisions of section 25:

Provided that all the members and groups of members whose joint family property has been partitioned during previous year shall be liable jointly and severally for the agricultural income-tax assessed on the total agricultural income received by or on behalf of the joint family as such up to the date of partition.

(3) Where such an order has not been passed in respect of a Hindu family hitherto assessed as undivided, such family shall be deemed for the purposes of this Act to continue to be a Hindu undivided family.

31. Cancellation of assessment where cause is shown.—Where an assessee within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Agricultural Income-tax Officer that he was prevented by sufficient cause from making the return required by section 24 or that he did not receive the notice issued under sub-section (4) of section 24, or sub-section (2) of section 25, or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of the last mentioned notices, the Agricultural Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 25.

32. Penalty for concealment of income.—(1) If the Agricultural Income-tax Officer, the Assistant Commissioner, the Commissioner or the Appellate Tribunal in the course of any proceedings under this Act, is satisfied that any person—

- (a) has without reasonable cause failed to furnish the return of his total agricultural income which he was required to furnish by notice given under sub-section (1) or sub-section (2) of section 24 or section 38 or has without reasonable cause failed to furnish it within the time allowed and in the manner required by such notice, or
- (b) has without reasonable cause failed to comply with a notice under sub-section (4) of section 24 or sub-section (2) of section 25, or
- (c) has concealed the particulars of his agricultural income or deliberately furnished inaccurate particulars of such income,

he may direct that such person shall pay by way of penalty, in the case referred to in clause (a), in addition to the amount of the agricultural income-tax payable by him a sum not exceeding that amount, and in the cases referred to in clauses (b) and (c), in addition to any agricultural income-tax payable by him, a sum not exceeding the amount of the agricultural income-tax which would have been avoided if the income as returned by such person had been accepted as the correct agricultural income.

Provided that—

- (a) no penalty for failure to furnish the return of his total agricultural income shall be imposed on an assessee whose total agricultural income is less than five thousand rupees unless he has been served with a notice under sub-section (2) of section 24;
- (b) where a person has failed to comply with a notice under sub-section (2) of section 24 or section 38 and proves that he has no income liable to agricultural income-tax, the penalty imposable under this sub-section shall be a penalty not exceeding twenty-five rupees.

(2) No order shall be made against a person under sub-section (1) unless such person has been heard or has been given a reasonable opportunity of being heard.

(3) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(4) When the Appellate Tribunal, the Commissioner or the Assistant Commissioner makes an order under sub-section (1) he shall forthwith send a copy of the same to the Agricultural Income-tax Officer concerned.

33. Notice of demand.—When any agricultural income-tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the Agricultural Income-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable.

34. Appeal against assessment under this Act.—(1) Any assessee objecting to the amount of agricultural income assessed under section 25 or section 31 or the amount of loss computed under section 26 or the amount of agricultural income-tax determined under section 25 or section 31 or denying his liability to be assessed under this Act or objecting to a refusal of an Agricultural Income-tax Officer to make a fresh assessment under section 31 or objecting to any order under section 30 or section 32 made by an Agricultural Income-tax Officer or objecting to any order imposing any penalty by an Agricultural Income-tax Officer under sub-section (1) of section 45 or objecting to a refusal of an Agricultural Income-tax Officer to allow a claim to a refund under section 47, 48 or 51 or the amount of the refund allowed by the Agricultural Income-tax Officer under any of those sections, may appeal to the Assistant Commissioner against the assessment or against such refusal or order:

Provided that no appeal shall lie against an order under sub-section (1) of section 45 unless the agricultural income-tax has been paid.

(2) The appeal shall ordinarily be presented within thirty days of receipt of the notice of demand relating to the assessment or penalty objected to or of the intimation of the refusal to pass an order under sub-section (1) of section 30 or of the date of the refusal to make a fresh assessment under section 31 or of the intimation of an order under section 47, 48 or 51, as the case may be; but the Assistant Commissioner may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

35. Hearing of appeal.—(1) The Assistant Commissioner shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing:

Provided that if the assessee or his agent is not present before the Assistant Commissioner when such day and place are fixed or such adjournment is made, the Assistant Commissioner shall inform the assessee or his agent by notice sent by post of the day and place fixed or of any date to which the hearing of such appeal is adjourned as the case may be.

(2) The Assistant Commissioner may, before disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Agricultural Income-tax Officer.

(3) The Assistant Commissioner may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if the Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

(4) In disposing of an appeal, the Assistant Commissioner may—

(a) in the case of an order of assessment—

(i) confirm, reduce, enhance or annul the assessment; or

(ii) set aside the assessment and direct the Agricultural Income-tax Officer to make a fresh assessment after making such further inquiry as the Agricultural Income-tax Officer thinks fit or the Assistant Commissioner may direct, and the Agricultural Income-tax Officer shall thereupon proceed to make such fresh assessment and determine where necessary the amount of agricultural income-tax payable on the basis of such fresh assessment; or

(b) in the case of an order under section 47, section 48 or section 51 confirm, cancel or vary such order; or

(c) in the case of an order under sub-section (1) of section 30, confirm such order or cancel it and either direct the Agricultural Income-tax Officer to make further inquiry and pass a fresh order to make an assessment in the manner laid down in sub-section (2) of section 30; or

(d) in the case of an order under section 32 or sub-section (1) of section 45, confirm or cancel such order or vary it so as either to enhance or reduce the penalty; or

(e) in the case of an appeal against a computation of loss under section 26, confirm or vary such computation;

Provided that the Assistant Commissioner shall not enhance an assessment or a penalty or reduce a refund unless the appellant has had a reasonable opportunity of showing cause against such enhancement or such reduction.

(5) The Assistant Commissioner shall on the conclusion of the appeal communicate the orders passed by him to the assessee and to the Commissioner.

30. Procedure of appeal to the Appellate Tribunal.—(1) Any assessee objecting to an order passed by the Assistant Commissioner under section 32 or section 35 may appeal to the Appellate Tribunal within sixty days of the date on which such order is communicated to him.

(2) The Commissioner may, if he objects to an order passed by the Assistant Commissioner under section 35, direct the Agricultural Income-tax Officer to appeal to the Appellate Tribunal against such order and in such case the Agricultural Income-tax Officer shall make the appeal within sixty days from the date on which the order is communicated to the Commissioner by the Assistant Commissioner.

(3) The Appellate Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if he is satisfied that there was sufficient cause for not presenting it within that period.

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner, and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of twenty-five rupees.

(5) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders as it thinks fit, and shall communicate such orders to the assessee and to the Commissioner.

(6) Save as provided in section 63 the orders passed by the Appellate Tribunal on appeal shall be final.

(7) Where an appeal is made to the Appellate Tribunal under this section the costs shall be in the discretion of the said Tribunal.

37. Power of revision by Commissioner.—(1) The Commissioner may of his own motion call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit:

Provided that the Commissioner shall not revise any order under this sub-section if—

- (a) where an appeal against the order lies to the Assistant Commissioner or to the Appellate Tribunal, the time within which such appeal may be made has not expired; or
- (b) the order is pending on an appeal before the Assistant Commissioner or has been made the subject of an appeal to the Appellate Tribunal; or
- (c) the order has been made more than one year previously.

(2) The Commissioner may, on application by an assessee for revision of an order under this Act passed by any authority subordinate to the Commissioner, made within one year from the date of the order, call for the record of the proceeding in which such order was passed, and on receipt of the record may make such inquiry or cause such inquiry to be made, and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit:

Provided that the Commissioner shall not revise any order under this sub-section if—

- (a) where an appeal against the order lies to the Assistant Commissioner or to the Appellate Tribunal but has not been made, the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal; or
- (b) where an appeal against the order has been made to the Assistant Commissioner, the appeal is pending before the Assistant Commissioner; or
- (c) the order has been made the subject of an appeal to the Appellate Tribunal:

Provided further that an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

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(3) Every application by an assessee under sub-section (2) shall be accompanied by a fee of twenty-five rupees.

38. Income escaping assessment.—(1) If in consequence of definite information which has come into his possession the Agricultural Income-tax Officer discovers that agricultural income chargeable to agricultural income-tax has escaped assessment in any year, or has been under-assessed, or has been assessed at too low a rate, or has been the subject of excessive relief under this Act, the Agricultural Income-tax Officer may, in any case in which the income is partially agricultural income assessable under this Act and partially income chargeable under the Indian Income-tax Act, 1922, under the head 'Business' or in which he has reason to believe that the assessee has concealed the particulars of his agricultural income or deliberately furnished inaccurate particulars thereof, at any time within six years, and in any other case at any time within four years of the end of that year, serve on the person liable to pay agricultural income-tax on such agricultural income, or in the case of a company or the Ruler of an Indian State, on the principal officer of such company or State, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 24 and may proceed to assess or re-assess such agricultural income and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section:

Provided that the agricultural income-tax shall be charged at the rate at which it would have been charged had the agricultural income not escaped assessment or full assessment, as the case may be.

(2) No order of assessment under section 25 or of assessment or re-assessment under sub-section (1) shall be made after the expiry, in any case in which section 8 or clause (c) of sub-section (1) of section 32 applies, of six years and, in other case, of four years from the end of the year in which the agricultural income was first assessable:

Provided that nothing contained in this sub-section shall apply to re-assessment made in pursuance of an order under section 35, section 36, section 63 or section 64.

39. Rectification of mistake.—(1) The Commissioner may at any time within four years from the date of any order passed by him in revision under section 37, the Appellate Tribunal or the Assistant Commissioner may, at any time within four years from the date of any order passed by it or him on appeal and the Agricultural Income-tax Officer may, at any time within four years from the date of any assessment order or refund order passed by him, on his own motion rectify any mistake apparent from the record of the revision, appeal, assessment or refund, as the case may be, and shall within the like period rectify any such mistake which has been brought to his notice by an assessee:

Provided that no such rectification shall be made, having the effect of enhancing an assessment or reducing a refund unless the Commissioner, the Appellate Tribunal, the Assistant Commissioner or the Agricultural Income-tax Officer, as the case may be, has given notice to the assessee of his intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, the Agricultural Income-tax Officer shall make any refund which may be due to such assessee.

(3) Where any such rectification has the effect of enhancing the assessment or reducing a refund the Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 33 and the provisions of this Act shall apply accordingly

(4) Any assessee objecting to any such rectification which has the effect of enhancing the assessment or reducing a refund may, within thirty days of receipt of the notice of demand referred to in sub-section (3), appeal—

(a) in the case where the rectification is made by an Agricultural Income-tax Officer, to the Assistant Commissioner and the provisions of sub-section (3) of section 34 and section 35 shall apply to every such appeal as if it were an appeal against an order of assessment under section 25 or an order of refund under section 47 or section 48;

(b) in the case where the rectification is made by the Assistant Commissioner to the Appellate Tribunal and the provisions of sub-section (4), (5), (6) and (7) of section 36 shall apply to every such appeal as if it were an appeal against an order passed by the Assistant Commissioner under section 35:

Provided that the provisions of section 63 shall not apply to any order passed by the Appellate Tribunal on any such appeal.

40. **Tax to be calculated to nearest anna.**—In the determination of the amount of agricultural income-tax or of a refund payable under this Act, fraction of an anna less than six pies shall be disregarded, and fraction of an anna equal to or exceeding six pies shall be regarded as one anna.

41. **Power to take evidence on oath, etc.**—The Agricultural Income-tax Officer, the Assistant Commissioner and the Appellate Tribunal shall, for the purposes of this Chapter, and the Commissioner shall, for the purposes of section 37, have the same power as are vested in a Court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters, namely:—

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents; and
- (c) issuing commissions for the examination of witnesses;

and any proceeding before an Agricultural Income-tax Officer, Assistant Commissioner or the Appellate Tribunal under this Chapter or before the Commissioner under section 37, shall be deemed to be a "Judicial proceeding" within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (Act XLV of 1860).

42. **Power to call for information.**—The Agricultural Income-tax Officer or Assistant Commissioner may, for the purposes of this Act,—

- (1) require any firm or Hindu undivided family to furnish him with a return of the members of the firm, or of the manager or adult male members of the family, as the case may be, and of their addresses,
- (2) require any person whom he has reason to believe to be a trustee, guardian, common manager, or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, common manager, or agent, and of their addresses.

43. **Power to inspect the register of members of any company.**—The Agricultural Income-tax Officer or any person authorized by him in writing in this behalf may inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register.

CHAPTER VI

Recovery of tax and penalties

44. **Tax when payable.**—(1) Any amount specified as payable in a notice of demand under section 33 or an order under section 35, section 36 or section 37, shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default:

Provided that where an assessee has presented an appeal under section 34, or under clause (a) of sub-section (4) of section 39, if such assessee makes an application to the Agricultural Income-tax Officer, supported by a certified copy of an order by the Assistant Commissioner or a certified copy of any entry in any register maintained by the Assistant Commissioner showing that such appeal has been presented for an extension of the period allowed for payment of the said tax until the appeal is disposed of, the Agricultural Income-tax Officer shall, unless the Assistant Commissioner for reasons to be recorded in writing directs otherwise, extend such period until the disposal of the said appeal.

(2) If an assessee makes an application within the time mentioned in the notice of demand in section 33 for being allowed to pay the tax due by instalments, the Agricultural Income-tax Officer may in his discretion, by order in writing allow the assessee to pay the tax due in instalments not exceeding four in number at such intervals as the said officer may fix in his discretion:

Provided that if as a result of an application made by the assessee, the Agricultural Income-tax Officer allows the assessee to pay the tax due in instalments, the assessee shall be deemed to have waived all his rights of appeal under this Act:

Provided further that if, on being allowed to pay the tax due by instalments, the assessee defaults in the payment of any one instalment he shall be deemed to be a defaulter in respect of the total remaining amount of tax due.

45. **Mode and time of recovery.**—(1) When an assessee is in default in making a payment of agricultural income-tax, the Agricultural Income-tax Officer may in

his discretion direct that, in addition to the amount of the arrears, a sum not exceeding half that amount shall be recovered from the assessee by way of penalty.

(2) For the purposes of sub-section (1), the Agricultural Income-tax Officer may direct the recovery of any sum less than half the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed half the amount of the arrears payable.

(3) The Agricultural Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue:

Provided that without prejudice to any other powers of the Collector in this behalf, he shall for the purpose of recovering the said amount have the powers which under the Code of Civil Procedure, 1908 (Act V of 1908.), a Civil Court has for the purpose of the recovery of an amount due under a decree.

(4) No proceeding for the recovery of any tax payable under this Act shall be commenced after the expiration of three years after,—

(a) the last date on which the tax is payable without the assessee being deemed to be in default, or

(b) the date on which the last instalment fixed under sub-section (2) of section 41 falls due, or

(c) the date on which any appeal relating to the payment of tax has been disposed of,

whichever is the later.

46. Recovery of penalties.—Any sum imposed by way of penalty under this Act shall be recoverable in the manner provided in this chapter for the recovery of arrear of agricultural income-tax.

CHAPTER VII

Refunds

47. Refunds.—(1) If any individual, Hindu undivided family, company, Ruler of an Indian State, firm or other association of persons satisfies the Agricultural Income-tax Officer that the amount of agricultural income-tax paid by him or by it or on his or its behalf or treated as paid on his or its behalf for any year exceeds the amount with which he or it is properly chargeable under this Act for that year, he or it shall be entitled to a refund of any such excess.

(2) The Assistant Commissioner in the exercise of his appellate powers or the Commissioner in the exercise of his powers of revision if satisfied to the like effect shall cause a refund to be made by the Agricultural Income-tax Officer of any amount found to have been wrongly paid or paid in excess.

(3) Where agricultural income of one person is included under any provision of this Act in the total agricultural income of any other person such other person only shall be entitled to a refund under this section in respect of such agricultural income.

(4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief.

48. Refunds of tax deemed to have been paid by companies, firms and associations on behalf of others.—(1) Notwithstanding anything in section 47, a shareholder of a company, a partner of a firm or a member of an association of persons on whose behalf agricultural income-tax is by section 17 deemed to have been paid by such company, firm or association, shall be entitled to a refund of agricultural income-tax on account of any difference between the rate of agricultural income-tax applicable under this Act to the total agricultural income of such company, firm or association and the average rate which would be applicable to the total world income of such share-holder, partner or member if such total world income were agricultural income chargeable to agricultural income-tax under this Act.

(2) Any share-holder of a company, partner of a firm or member of an association of persons who is deemed to be entitled under the provisions of sub-section (1) to a refund of agricultural income-tax in respect of the previous year may

apply to the Agricultural Income-tax Officer in the prescribed manner for such refund, and if the Agricultural Income-tax Officer after such inquiry as he thinks necessary is satisfied that a refund under the provisions of sub-section (1) is due he shall compute the amount of such refund according to the provisions of sub-section (3) and such amount shall be paid to the share-holder, partner or member, as the case may be.

(3) The amount of any refund of agricultural income-tax due under the provisions of sub-section (1) shall be the product of the amount of agricultural income on which tax is deemed to have been paid by a company, firm or association of persons and has been received by a share-holder, partner or member, as the case may be, and the difference between the rate of agricultural income-tax applicable to the total agricultural income of the said company, firm or association chargeable to agricultural income-tax under this Act, and the average rate of such tax applicable to an amount equivalent to the total world income of such share-holder, partner or member in the previous year.

(4) "Average rate" in sub-section (3) means the rate obtained by dividing the amount of agricultural income-tax which would be payable by assessee in the year of assessment if his total world income in the previous year were agricultural income chargeable to agricultural income-tax at the rates applicable under this Act by the said total world income.

(5) For the purpose of determining the total world income,—

- (a) where the total world income of an assessee under the Indian Income-tax Act, 1922 (XI of 1922.), has been computed for the purposes of that Act, that computation shall be accepted as determining the total world income under that Act for the purposes of this Act and if such a computation has not been made the total world income of an assessee under that Act shall be computed in the manner prescribed;
- (b) the agricultural income derived from land outside Bengal shall be calculated in the manner prescribed.

Explanation.—A certified copy of an order computing the total world income under the Indian Income-tax Act, 1922, shall be conclusive evidence of the contents thereof.

49. Reciprocal relief in respect of double taxation with other Governments.—

(1) The Provincial Government may, by notification in the Official Gazette, make provision for the granting of relief in respect of agricultural income on which both agricultural income-tax under this Act and other income-tax have been paid.

(2) For the purposes of this section "other income-tax" means any income-tax, super-tax or sur-tax charged under—

- (a) any law of a State other than Bengal in force in that State, or
- (b) any law in force in any Indian State, or in any part of His Majesty's Dominions, or in the United Kingdom

where the laws of such Province, or part of His Majesty's Dominions, or of the United Kingdom, as the case may be, provide for relief in respect of tax charged on income both in such Province, or part of His Majesty's Dominions, or in the United Kingdom, as the case may be, and in Bengal, which appears to the Provincial Government to correspond to the relief which may be granted under this section.

50. Power to set off amount of refunds against tax remaining payable.—Where under any of the provisions of this Act, a refund is found to be due to any person, the Agricultural Income-tax Officer, the Assistant Commissioner or the Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded, or any part of that amount against the agricultural income-tax, if any, remaining payable by the person to whom the refund is due.

51. Power of representative of deceased person or persons disabled to make claim on his behalf.—Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 47 or section 48 is unable to receive such refund or to make such claim, his executor, administrator or other legal representative, or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate.

52. Limitation of claims for refunds.—No claim to any refund of agricultural income-tax under this chapter shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the agricultural income was received.

CHAPTER VIII

Offences and penalties

53. Failure to make payments or deliver returns or statements or allow inspections.—(1) If a person fails without reasonable cause or excuse—

- (a) to furnish in due time any of the returns mentioned in section 24 or section 42;
- (b) to produce or cause to be produced, on or before the last date allowed by the Agricultural Income-tax Officer under the first proviso to sub-section (4) of section 24 or the date mentioned in the notice under the said sub-section, whichever is the later, such accounts, or documents as are referred to in the notice,
- (c) to grant inspection or allow copies to be taken in accordance with the provisions of section 43

he shall, on conviction of such offence before a Magistrate, be punishable with a fine which may extend to fifty rupees.

(2) If a person after having been convicted of any offence referred to in sub-section (1) continues to commit such offence, he shall be punished for each day after the first during which he continues so to offend with fine which may extend to five rupees.

54. False statement in declaration.—If a person makes a statement in a verification mentioned in section 24 or sub-section (3) of section 34 or sub-section (4) of section 36 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable, on conviction before a Magistrate, with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees or with both.

55. Prosecution to lie at the instance of Commissioner.—(1) A person shall not be proceeded against for an offence under section 53 or section 54 except at the instance of the Commissioner.

(2) The Commissioner may, subject to such conditions as may be prescribed, either before or after the institution of proceedings compound any such offence.

56. Disclosure of information by public servant.—(1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment, proceeding or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (I of 1872), no Court shall, save as provided in sub-section (3), be entitled to require any servant of the Crown to produce before it any such return, account, documents or record or any part of such record, or to give evidence before it in respect thereof.

(2) If, save as provided in sub-section (3), any servant of the Crown discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine

(3) Nothing in this section shall apply to—

- (a) the disclosure of any of the particulars referred to in sub-section (1) for the purposes of a prosecution under the Indian Penal Code (Act XLV of 1860), in respect of any such statement, returns, accounts, documents, affidavit, deposition, record or evidence or for the purposes of carrying into effect the provisions of this Act;
- (b) the disclosure to an officer of the Central Government of such facts as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it on income other than agricultural income;
- (c) the production by a servant of the Crown before a Court of any document, declaration or affidavit filed or the record of any statement or disposition made in a proceeding under section 30 or to the giving of evidence by a servant of the Crown in respect thereof.

(4) No prosecution shall be instituted under this section except with the previous sanction of the Commissioner.

CHAPTER IX

Miscellaneous

57. Power to make rules.—(1) The Provincial Government may, subject to the condition of previous publication, make rules consistent with the provisions of this Act for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe in accordance with the provision of this Act the manner of ascertainment and determination of agricultural income;
- (b) prescribe the procedure to be followed on application for refunds allowable under this Act;
- (c) provide for any matter which by this Act is to be prescribed.

58. Appearance by authorised representative.—(1) An assessee, who is entitled or required to attend before the Appellate Tribunal or any agricultural income-tax authority in connection with any proceeding under this Act otherwise than when required under section 41 to attend personally for examination on oath or affirmation, may attend by a person authorised by him in writing in this behalf, being a relative of or a person regularly employed by the assessee, or a lawyer or accountant or agricultural income-tax practitioner, and not being disqualified by or under sub-section (3).

(2) In this section—

- (i) a person regularly employed by the assessee shall include any officer of a banking company with which the assessee maintains a current account or has other regular dealings.

Explanation.—“Banking company” means a banking company as defined in section 277F of the Indian Companies Act, 1913 (VII of 1913);

- (ii) “lawyer” means a Barrister-at-law or Solicitor or any other person entitled to plead in any Court of law in India;
- (iii) “accountant” means a registered accountant enrolled in the Register of Accountants, maintained by the Central Government under the Auditor’s Certificate Rules, 1932, or holder of a restricted certificate under the Restricted Certificate Rules, 1932, or a member of an Association of Accountants recognised by the Central Board of Revenue;
- (iv) “agricultural income-tax practitioner” means any person who has acquired such educational qualifications as may be prescribed and who has, subject to the payment of such fees as may be prescribed, been registered in the manner prescribed, been registered in the manner prescribed as such a practitioner.

(3) If any lawyer or registered accountant is found guilty of misconduct in connection with any agricultural income-tax proceedings by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner, the Commissioner may direct that he shall be thenceforward disqualified to represent an assessee under sub-section (1):

Provided that—

- (a) no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard;
- (b) any person against whom such direction is made may, within one month of the making of the direction, appeal to the High Court; and
- (c) no such direction shall take effect until one month from the making thereof or, when an appeal is preferred, until the disposal of the appeal.

59. Receipts to be given.—A receipt shall be given for any money paid or recovered under this Act.

60. Service of notices.—(1) A notice or requisition under this Act may be served on the person therein named either by post, or as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908 (Act V of 1908).

(2) Any such notice or requisition may—

- (a) in the case of a firm, or a Hindu undivided family, be addressed to any member of the firm or to the manager of the family; and
- (b) in the case of the Ruler of an Indian State a company or any other association of persons be addressed to the principal officer thereof

61. Place of assessment.—(1) Where an assessee is a company having a registered office in Bengal, it shall be assessed by the Agricultural Income-tax Officer of the area in which such registered office is situated.

(2) Where an assessee is a company not having a registered office in Bengal or is a firm or other association of persons, it shall be assessed by the Agricultural Income-tax Officer of the area where the principal accounts relating to its agricultural income are kept.

(3) In all other cases the assessee shall be assessed by the Agricultural Income-tax Officer of the area in which such assessee resides and where the assessee resides outside Bengal by the Agricultural Income-tax Officer of the area in which the agent or the principal officer of such assessee resides:

Provided that if the accounts relating to the agricultural income of an assessee are kept in any place in Bengal, such assessee shall have the option of being assessed by the Agricultural Income-tax Officer of the area in which such place is situated.

Explanation.—In the case of a Hindu undivided family, an assessee shall for the purpose of this sub-section be deemed to reside where the manager of the family resides.

(4) Where an option is exercisable by an assessee under the proviso to sub-section (3), he shall exercise such option within thirty days of the publication of the notice under sub-section (1) of section 24 or where a notice under sub-section (2) of that section is served, within thirty days from the service of such notice.

(5) Where any question arises under this section as to the place of assessment, such question shall be determined by the Assistant Commissioner after giving the assessee an opportunity of being heard.

(6) Where an assessment has once been made under this Act by an Agricultural Income-tax Officer, no objection relating to the place of assessment shall lie against such assessment.

(7) Subject to the provisions of this section every Agricultural Income-tax Officer shall have all the powers conferred by or under this Act on the Agricultural Income-tax Officer in respect of any agricultural income derived from land situated within the area to which he is appointed.

62. Indemnity.—Every person retaining or paying any tax in pursuance of this Act in respect of agricultural income belonging to another person is hereby indemnified for the retention or payment thereof.

63. Statement of case by Appellate Tribunal to High Court.—(1) Within sixty days of the date upon which he is served with a notice of an order under sub-section (5) of section 36 the assessee or the Commissioner may by application in the prescribed form, accompanied when the application is made by the assessee, by a fee of fifty rupees, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and the Appellate Tribunal shall within ninety days of the receipt of such application, draw up a statement of the case and refer it to the High Court:

Provided that, if in the exercise of its powers under sub-section (2) the Appellate Tribunal refuses to state a case which it has been required by the assessee to state, the assessee may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw his application, and if he does so, the fee paid shall be refunded.

(2) If on any application being made under sub-section (1) the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may, within ninety days from the date on which he is served with notice of the refusal, apply to the High Court, and the High Court may, if it is not satisfied of the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it and on receipt of any such requisition the Appellate Tribunal shall state the case and refer it accordingly.

(3) If on any application being made under sub-section (1) the Appellate Tribunal rejects it on the ground that it is time-barred, the assessee or the Commissioner, as the case may be, may, within sixty days from the date on which he is served with notice of the rejection apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Appellate Tribunal's decision, may require the Appellate Tribunal to treat the application as made within the time allowed under sub-section (1).

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby,

The Court may refer the case back to the Appellate Tribunal to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send a copy of such judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(6) Where a reference is made to the High Court the costs shall be in the discretion of the Court.

(7) Notwithstanding that a reference has been made under this section to the High Court, tax shall be payable in accordance with the assessment made in the cases.

Provided that if the amount of assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow unless the High Court on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that the Commissioner intends to ask for leave to appeal to His Majesty in Council, makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal to His Majesty in Council.

(8) Section 5 of the Indian Limitation Act, 1908 (IX of 1908), shall apply to an application to the Appellate Tribunal under sub-section (1) or to the High Court under sub-section (2) or sub-section (3).

64. Reference to be heard by a Bench of the High Court, and appeal to lie in certain cases to Privy Council.—

(2) An appeal shall lie to His Majesty in Council from any judgment of the High Court delivered on a reference made under section 63 in any case which the High Court certifies to be a fit one for appeal to His Majesty in Council.

(3) The provisions of the Code of Civil Procedure, 1908, relating to appeals to His Majesty in Council shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court:

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (5) or sub-section (7) of section 63:

Provided further that the High Court may, on petition made for the execution of the order of His Majesty in Council in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court.

(4) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of His Majesty in Council in the manner provided in sub-sections (5) and (7) of section 63 in the case of a judgment of the High Court.

65. Bar of suits in Civil Courts.—No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any officer of the Crown for anything in good faith done or intended to be done under this Act.

66. Computation of periods of limitation.—In computing the period of limitation prescribed for an appeal under this Act or for an application under section 63 the day on which the order complained of was made, and the time requisite for obtaining a copy of such order, shall be excluded.

THE SCHEDULE

(See section 3)

Rates of agricultural income-tax

A. (1) In the case of every individual, Hindu undivided family (other than a Hindu undivided family consisting of brothers only), or Ruler of an Indian State:

Rate.

- | | |
|--|-------------------------|
| (a) On the first Rs. 1,500 of the total agricultural income. | Nil. |
| (b) On the next Rs. 3,500 of the total agricultural income. | Nine pies in the rupee. |

- | | |
|---|---------------------------------------|
| (c) On the next Rs. 5,000 of the total agricultural income. | One anna and three pies in the rupee. |
| (d) On the next Rs. 5,000 of the total agricultural income. | Two annas in the rupee. |
| (e) On the next Rs. 5,000 of the total agricultural income. | Three annas in the rupee. |
| (f) On the balance of the total agricultural income. | Four annas in the rupee |
- (2) In the case of every Hindu undivided family which consists of brothers only:

Rate.

- | | |
|---|--|
| (a) If the share of a brother is Rs. 3,000 or less. | Four pies in the rupee. |
| (b) If the share of a brother exceeds Rs. 3,000. | The average rate applicable to the share of such brother if he were assessed as an individual. |

Provided that—

(i) no agricultural income-tax shall be payable on a total agricultural income which does not exceed Rs. 3,000;

(ii) in the case of an individual or Hindu undivided family whose only source of agricultural income is the land possessed by such individual or family and cultivated by such individual or the members of such family, as the case may be, with or without the aid of hired labourers, no agricultural income-tax shall be payable by such individual or family on the agricultural income derived from such land if the area of such land does not exceed one eighty *bighas*;

(iii) the agricultural income-tax payable shall in no case exceed half the amount by which the total agricultural income exceeds Rs. 3,000.

Explanation—For the purposes of this Schedule—

- (i) "brother" includes the son and the son of a son of a brother and the widow of a brother;
- (ii) "share of a brother" means the portion of the total agricultural income of a Hindu undivided family which would have been allotted to a brother if a partition of the property of such family had been made on the last day of the previous year;
- (iii) "average rate" means the amount of agricultural income-tax payable by an individual on his total agricultural income divided by the amount of such total agricultural income.

B. In the case of every company, firm or other association of persons:

Rate.

- | | |
|--|--------------------------|
| On the whole of the total agricultural income. | Four annas in the rupee. |
|--|--------------------------|

[No. 18-J.]

A. N. SACHDEV, Under Secy.

MINISTRY OF FINANCE (REVENUE DIVISION)

CUSTOMS

New Delhi, the 2nd February 1951

S.R.O. 178.—In exercise of the powers conferred by section 19 of the Sea Customs Act, 1878 (VIII of 1878), and in supersession of the notification of the Government of India in the late Home Department, No. F.649/34-Judicial, dated the 19th September 1934, the Central Government hereby prohibits the taking out of India to Kenya or to Uganda of any book, pamphlet, advertisement or other document which is intended or calculated to promote the sale of any medicine, appliance or article for the alleviation or cure of any venereal disease or disease affecting the generating organs or functions, or of sexual impotence or of any complaint or infirmity arising from or relating to sexual intercourse.

[No. 16.]

D. P. ANAND, Dy. Secy.

CENTRAL BOARD OF REVENUE**CENTRAL EXCISES***New Delhi, the 1st February 1951*

S.R.O. 179.—In exercise of the powers conferred by rule 4 of the Central Excise Rules, 1944, and in supersession of its notification No. 1-Central Excise, dated the 16th March 1946, the Central Board of Revenue hereby appoints for the purposes of rule 56, sub-rule (6) of rule 83, rules 85 and 197 of the said Rules, the following officers as Central Excise Officers, namely:—

- I. Chief Chemist, Central Revenues Control Laboratory, New Delhi;
- II. Chemical Examiners, Assistant Chemical Examiners and Chemical Assistants of—
 - (a) Central Revenues Control Laboratory, New Delhi;
 - (b) Custom House Laboratories, Calcutta, Madras, Bombay and Okha;

[No. 3.]

D. P. ANAND, Secy.

INCOME-TAX*New Delhi, the 1st February 1951*

S.R.O. 180.—In pursuance of sub-section (4) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), and in partial modification of its Notification No. 32-Income-tax, dated the 9th November 1946, the Central Board of Revenue directs that the Appellate Assistant Commissioner of Income-tax, 'A' Range, Bombay shall also and the Appellate Assistant Commissioner of Income-tax, 'B' Range, Delhi shall not perform his functions in respect of Messrs. K. S. Bhargava, Chowri Bazar, Delhi for the appeal against their assessment for the year 1944-45 under section 34 of the Indian Income-tax Act.

[No. 11.]

PYARE LAL, Secy.

MINISTRY OF COMMERCE AND INDUSTRY*New Delhi, the 1st February 1951*

S.R.O. 181.—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the late Ministry of Industry and Supply, No. S. R. O. 66, dated the 15th January, 1951, namely—

- In column 2 of the schedule to the said notification, in the entry relating to Bombay for the figures Rs. 18-3-0 the figures Rs. 18-8-0, and in the entry relating in Calcutta for the figures Rs. 18-8-0 the figures Rs. 18-3-0 shall be substituted.

ORDER

ORDERED that a copy of the above Notification be communicated to all Governments of Parts A and B States (except Jammu and Kashmir), all Chief Commissioners of Part C States including Andaman and Nicobar Islands, all Ministries of the Government of India, Cabinet Secretariat, Prime Minister's Secretariat, Secretary to the President, the Indian Trade Commissioners, all Indian Embassies, the High Commissioner for India, London, His Majesty's Trade Commissioner in India, all Chambers of Commerce and Associations, the Director General of Commercial Intelligence and Statistics, Calcutta, the High Commissioner for India in Pakistan, Karachi, the High Commissioner for Pakistan in India, New Delhi, the Secretary, Indian Tariff Board and the Secretary, Planning Commission.

ORDERED also that it be published in the *Gazette of India*.

[No. PC-7(2)/50.]

P. S. SUNDARAM, Under Secy.

New Delhi, the 10th February 1951

S.R.O. 182.—In exercise of the powers conferred by sub-clause (a) of Clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to direct that the following further amendment shall be made in the Notification of the Government of India in the Ministry of Industry and Supply, No. I(1)-4(41), dated the 17th September 1950, namely:—

To the Schedule annexed to the said Notification, the following entries shall be added, namely:—

“Director of Civil Supplies, Government of Madhya Bharat, Indore.
Deputy Director of Civil Supplies; Government of Madhya Bharat, Indore.
Assistant Directors of Civil Supplies in Madhya Bharat”.

[No. I(1)-4(76).]

S.R.O. 183.—In exercise of the powers conferred by sub-clause (a) of Clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to direct that the following further amendment shall be made in the Notification of the Government of India in the Ministry of Industry and Supply, No. I(1)-1(530) D, dated the 26th May 1948, namely:—

To the Schedule annexed to the said Notification, the following entry shall be added, namely:—

“Director of Civil Supplies, Government of Madhya Bharat, Indore”.

[No. I(1)-4(76)A.]

S.R.O. 184.—In exercise of the powers conferred by sub-clause (a) of Clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to direct that the following further amendment shall be made in the Notification of the Government of India in the Ministry of Industry and Supply, No. I(1)-(899)/48-B, dated the 16th August 1948, namely:—

To the Schedule annexed to the said Notification, the following entry shall be added, namely:—

“Director of Civil Supplies, Government of Madhya Bharat, Indore”.

[No. I(1)-4(76)B.]

S.R.O. 185.—In exercise of the powers conferred by sub-clause (a) of Clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to direct that the following further amendment shall be made in the Notification of the Government of India in the Ministry of Industry and Supply, No. I(1)-1(106), dated the 8th March 1948, namely:—

To the Schedule annexed to the said Notification, the following entry shall be added, namely:—

“Director of Civil Supplies, Government of Madhya Bharat, Indore”.

[No. I(1)-4(76)C.]

S.R.O. 186.—In exercise of the powers conferred by sub-clause (b) of Clause 2 of the Iron and Steel (Scrap Control) Order, 1943, the Central Government is pleased to direct that the following amendment shall be made in the Notification of the Government of India in the Ministry of Industry and Supply, No. I(1)-4(78)A, dated the 6th January 1951, namely:—

To the Schedule annexed to the said Notification, the following entries shall be added, namely:—

“Director of Civil Supplies, Government of Madhya Bharat, Indore.
Deputy Director of Civil Supplies, Government of Madhya Bharat, Indore.
Assistant Directors of Civil Supplies in Madhya Bharat”.

[No. I(1)-4(76)D.]

S.R.O. 187.—In exercise of the powers conferred by sub-clause (b) of Clause 2 of the Iron and Steel (Scrap Control) Order, 1943, the Central Government is pleased to direct that the following amendment shall be made in the Notification of the Government of India in the Ministry of Industry and Supply, No. I(1)-4(78)B, dated the 6th January 1951, namely:—

To the Schedule annexed to the said Notification, the following entry shall be added, namely:—

“Director of Civil Supplies, Government of Madhya Bharat, Indore”

[No. I(1)-4(76)E.]

N. R. REDDY, Under Secy.

MINISTRY OF AGRICULTURE*New Delhi, the 10th February 1951*

S.R.O. 188.—In exercise of the powers conferred by clause 11 of the Sugar and Gur Control Order, 1950, the Central Government is pleased to direct that the following further amendment shall be made to the Ministry of Agriculture Notification No. S.R.O. 792-A, dated the 19th October, 1950:—

In "The Schedule" to the said Notification Against item "13 P.E.P.S.U., under column (2) add (ii) All District Magistrates". and under column (3), against the above entry add "8".

[No. SV-105(3)/50-51.]

... **S.R.O. 189.**—In pursuance of clause 9 of the Sugar and Gur Control Order, 1950, the Central Government is pleased to direct that the following further amendment shall be made to Ministry of Agriculture Notification S.R.O. 792, dated the 19th October 1950:—

In "The Schedule" to the said Notification—on page 878 A of the Gazette, under the column "Designation of Officer", after the entry "Director of Civil Supplies, Patiala and East Punjab States Union",

add "All District Magistrates, Patiala and East Punjab States Union."

under the column "Extent of Powers", against the above entry,

add "All except in respect of producers of sugar by vacuum pan process"

[No. SV-105(3)/50-51.]

S.R.O. 190.—In exercise of the powers conferred by clause 9 of Sugar and Gur Control Order 1950, the Central Government is pleased to direct that the following amendments shall be made in Ministry of Agriculture Notification No. S.R.O. 792, dated the 19th October, 1950:—

In "The Schedule" to the said Notification

Under the column "Designation of Officer" after the entry "Superintendent of Supply, Assam",—

Add "All Inspectors and Sub-Inspectors of Supply."

Under the column "Extent of Powers," against the above entry,—

Add "In respect of search and inspection only."

[No. SV-105(3)/50-51.]

N. T. MONE, Joint Secy.

MINISTRY OF EDUCATION**ARCHAEOLOGY***New Delhi, the 5th February 1951*

S.R.O. 191.—In exercise of the powers conferred by Section 15 of the Ancient Monuments Preservation Act 1904 (Act VII of 1904), the Central Government hereby directs that the following amendment shall be made in the Rules for admission of visitors to the Shanwarwada, Poona, published with the Notification of the Government of India in the late Department of Education, Health and Lands No. F. 5-19/38-F dated the 23rd March 1939:—

In rule 2 of the said Rules, the words 'Between the hours of 5 and 7 P.M. on all days except Saturdays and Sundays only women and children shall be permitted inside the Wada' shall be omitted.

[F. 3-71/50-A. 2]

BINA CHATTERJEE, Under Secy.

MINISTRY OF TRANSPORT**PORTS***New Delhi, the 6th February 1951*

S.R.O. 192.—In exercise of the powers conferred by sections 33 and 34 of the Indian Ports Act, 1908 (XV of 1908), the Central Government hereby directs that in calculating the port dues leviable at the Port of Madras fractions of an anna less

than six pies in any item shall be dropped and six pies and over reckoned as one anna with effect from the 14th April 1951.

[No. 13-P(4)/51.]

S.R.O. 193.—In exercise of the powers conferred by section 35 of the Indian Ports Act 1908, (XV of 1908), the Central Government hereby directs that in calculating the fees leviable at the Port of Madras under the said section fractions of an anna less than six pies in any item shall be dropped and six pies and over reckoned as one anna.

[No. 13-P(4)/51.]

T. S. PARASURAMAN, Dy. Secy.

MINISTRY OF COMMUNICATIONS

POSTS AND TELEGRAPHS

New Delhi, the 1st February 1951

S.R.O. 194.—In exercise of the powers conferred by the Indian Post Office Act, 1898 (VI of 1898), the Central Government hereby directs that the following further amendment shall be made in the Indian Post Office Rules, 1933, namely:—

In rule 183 of the said Rules, after clause (2), the following clause shall be inserted, namely:—

“(aa) The Secretary, Coal Mines Provident Fund Organisation, provided that the articles posted by him relate solely to the business of the said Organisation.

[No. C.28-13/50.]

New Delhi, the 2nd February 1951

S.R.O. 195.—In exercise of the powers conferred by the Indian Post Office Act 1898 (VI of 1898), the Central Government is pleased to direct that the following further amendment shall be made in the Indian Post Office Rules, 1933, namely:—

For rule 183 of the said Rules the following shall be substituted, namely:—

“183. The following persons shall be entitled to send official postal articles on India Government Service, subject to the conditions noted against each:—

- (a) All Government officials, except those who are on leave or have retired from the service, provided that the articles posted by them are bona fide and exclusively on service of the Government of India.
- (b) The Vice-Chancellors and the Registrars of the Calcutta, Madras, Bombay, Allahabad, Patna, Delhi, Lucknow, Andhra, Agra, Punjab and the Annamalai Universities, provided that the articles posted by them relate solely to the public business of the Universities.
- (c) The Presidents of the Districts Educational Councils in the State of Madras and their Secretaries, provided that the articles posted by them relate solely to the public business of the Council.
- (d) The Astronomer in charge of the G. V. Juggarao Observatory, Vizagapatnam, provided that the articles posted by him relate solely to business of the Observatory.
- (e) The Chairman of the Board of Trustees for the Hospital for Mental Diseases at Ranchi and the Superintendent of the said Hospital, provided that the articles posted by them relate solely to the business of the Hospital.
- (f) The Secretary of the Indian Central Cotton Committee and Officer-in-charge of the various research and other schemes conducted from funds placed at their disposal by the Indian Central Cotton Committee, provided that the articles posted by them relate solely to the business of the Committee.
- (g) The Commissioner of Waqfs in the Muzaffarnagar District of the Uttar Pradesh and Commissioner of Waqfs, West Bengal, provided that the articles posted by them relate to matters connected with their official duties.

- (h) The President-Secretary of the Assam Sanskrit Board, provided that the articles posted by him relate to the business of the Board.
- (i) The Secretaries of Bombay and Bengal Boards of Film Censors, provided that the articles posted by them relate solely to the business of the Boards.
- (j) The Director of Agriculture in the State of Bombay and officers in charge of the various research and other schemes conducted under the supervision of the Director of Agriculture from funds placed at his disposal by the Trustees of the Sir Saseon David Trust Fund, provided that the articles posted by them relate solely to the public business of the schemes, and also the Chairman of the Board of the Sir Saseon David Trust Fund, Bombay, provided that the articles posted by him relate solely to the business of the Board.
- (k) The Chairman, Bar Council, Madras, provided that the articles posted by him relate solely to the public business of the Council.
- (l) The Executive Officer, Port Haj Committee, Calcutta, and the Secretary, Port Haj Committee, Bombay, provided that the articles posted by them relate solely to the business of the Committee.
- (m) The Secretary, Indian Council of Agricultural Research, provided that the articles posted by him relate solely to the business of the Council.
- (n) The Deputy Collector of Salt Revenue, Bombay, provided that the articles posted by him relate solely to the business of the Landing and Wharfage Fees Fund.
- (o) The Controller of Emigrant Labour, provided that the articles posted by him relate solely to his business as Controller.
- (p) The Backward Class Officer, Bombay State, provided that the articles posted by him relate solely to the business of the Criminal Tribes Industrial Societies.
- (q) The Secretary of the Indian Central Jute Committee, provided that the articles posted by him relate solely to the business of the Committee.
- (r) The Secretary, Medical Council of India, provided that the articles posted by him relate solely to the business of the Council.
- (s) The Chairman and the Secretary of the Coal Mines Stowing Board, provided that the articles posted by them relate solely to the business of the Board.
- (t) The Director and the Secretary of the Council of Scientific and Industrial Research, provided that the articles posted by them relate solely to the business of the Council.
- (u) The Secretaries of India, State and District Sailors, Soldiers, and Air-men's Boards in India provided that the articles posted by them relate solely to the business of the Boards.
- (v) The Secretary of the Indian Coffee Board, the Controllers and the Deputy Controller of Coffee and officers in charge of the various sub-offices of the Board, provided that the articles posted by them relate solely to the business of the Board.
- (w) The following officers of the Government of Pakistan provided that the articles posted by them relate solely to the business of their Government, viz. the High Commissioner for Pakistan in India, The Deputy High Commissioners for Pakistan in India at Jullundur and Calcutta, the Permit Officer for Pakistan at Bombay and the Liaison Officer (Textiles) Pakistan at Bombay.
- (x) The Secretary, Damodar Valley Corporation, provided that the articles posted by him relate solely to the business of the office of the Corporation.
- (y) The Secretary, Dental Council of India, provided that the articles posted by him relate solely to the business of the Council.

- (z) The Secretary, Indian Central Arecanut Committee, provided that the articles posted by him relate solely to the business of the Committee."

[No. C.28-8/50.]

K. V. VENKATACHALAM, Dy. Secy.

MINISTRY OF LABOUR

New Delhi, the 31st January 1951

S.R.O. 196.—In pursuance of rule 3 of the Minimum Wages (Central Advisory Board) Rules, 1949, the Central Government hereby nominates Shri S. C. Palit, Secretary to the Government of Orissa, Labour Department, Cuttack, as member of the Central Advisory Board, to represent the State of Orissa in place of Dr H. P. Mohanty.

[No. LWI-24(53).]

P. N. SHARMA, under Secy.

New Delhi, the 10th February 1951

S.R.O. 197.—The following draft of a scheme for the Port of Calcutta, which it is proposed to make in exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948, (No. IX of 1948), is published as required by sub-section 2 of the said section for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 15th March 1951.

2. Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

DRAFT SCHEME

THE CALCUTTA DOCK WORKERS (REGULATION OF EMPLOYMENT) SCHEME 1951.

1. Name of the Scheme.—This Scheme may be called the Calcutta Dock Workers (Regulation of Employment) Scheme, 1951, and is hereinafter referred to as "the Scheme."

2. Objects and Application.—(1) The Objects of the Scheme are to ensure greater regularity of employment for dock workers and to secure that an adequate number of dock workers is available for the efficient performance of dock work.

(2) The Scheme relates to the Port of Calcutta and shall apply to the classes or descriptions of dock work and dock workers set out in the Schedule annexed to the Scheme:

Provided always that the Scheme shall not apply to any dock worker unless he is employed or registered for employment in connection with the loading, unloading, movement or storage of cargoes or work in connection with the preparation of ships or other vessels for the receipt or discharge of cargoes or for leaving port.

(3) The Scheme shall apply to registered dock workers and registered employers.

3. Interpretations.—In this Scheme, unless there is anything repugnant in the subject or context—

- (a) "the Act" means the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948);
- (b) "Administrative Body" means the Authority appointed under clause 5;
- (c) "Board" means the Board constituted under clause 4;
- (d) "cargo" and "dock worker" have the meanings respectively assigned to them in the Act;
- (e) "daily worker" means a registered dock worker who is not a monthly worker;

- (f) "dock employer" means the person by whom a dock worker is employed or is to be employed;
- (g) "dock work" means operations at places or premises to which the Scheme relates, ordinarily performed by dock workers of the classes or descriptions to which the Scheme applies;
- (h) "employer's register" means the register of dock employers maintained under the Scheme;
- (i) "monthly worker" means a registered dock worker who is engaged by a registered employer under a contract which requires at least one month's notice for its termination;
- (j) "register or record" means the register or record of dock workers maintained under the Scheme;
- (k) "registered dock worker" means a dock worker whose name is for the time being entered in the register or record;
- (l) "registered employer" means a dock employer whose name is for the time being entered in the employer's register;
- (m) "reserve pool" means registered dock workers who are available for work, and who are not at any time in the employment of a registered employer;
- (n) "week" means the period commencing from mid-night of Saturday and ending on the midnight of the next succeeding Saturday;
- (o) "Special Officer" means the special officer appointed under clause 6.

4. Calcutta Dock Labour Board.—Establishment of.—(1) The Central Government shall, by notification in the official Gazette, constitute a Board to be called the "Calcutta Dock Labour Board" which shall, subject to the provisions hereinafter contained, be responsible for the administration of the Scheme.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Board shall consist of twelve members to be appointed by the Central Government and shall include an equal number of members representing—

- (i) the Central Government,
- (ii) the dock workers, and
- (iii) the employers of dock workers.

(4) The Chairman of the Board shall be nominated by the Central Government from among the members representing the Government and the Vice-Chairman of the Board shall be elected by the members of the Board from among themselves.

(5) The persons representing respectively the dock workers and the employers shall be appointed after consulting such Associations of persons as appear to the Central Government to be representative of such workers and such employers.

(6) There shall be paid to the non-official members of the Board such salaries, fees and allowances as may subject to the approval of the Central Government, be determined by the Board, from time to time.

(7) The members of the Board shall hold office for three years and shall be eligible for re-appointment. A member appointed to fill a casual vacancy shall hold office for the unexpired portion of the term of the person in whose place he is appointed.

(8) No act done by the Board shall be questioned merely on the ground of the existence of any vacancy in, or defect in the constitution of, the Board.

(9) The quorum and procedure of the Board shall be such as the Board may from time to time determine.

(10) If any question arises for the decision of the Board, it shall be decided by a resolution of the majority of the members of the Board present and voting.

5. Administrative Body.—(1) The Central Government may, by notification in the Official Gazette, constitute a body consisting of such employers of dock workers as the Central Government may nominate in this behalf or appoint any other authority, for the purpose of carrying on the day-to-day administration of the Scheme.

(2) The Administrative Body shall subject to the supervision and control of the Board and subject to the provisions of clause 9 carry on the day-to-day administration of the Scheme.

(3) The Central Government may for sufficient cause remove any authority appointed under sub-clause (1):

Provided that no such authority shall be removed unless it has been given a reasonable opportunity of being heard.

6. Special Officer and other servants of the Board.—The Board may appoint a Special Officer and such other officers and servants and pay them such salaries and allowances and prescribe such terms and conditions of service as it deems fit:

Provided that no post carrying a salary of rupees five hundred per mensem or more, shall be created and no appointment to such post shall be made by the Board except with the previous approval of the Central Government.

7. Functions of the Board.—(1) The Board may take such measures as it may consider desirable for furthering the objectives of the Scheme set out in clause 2, including measures for:

- (a) ensuring the full and proper utilisation of dock labour for the purpose of facilitating the rapid and economic turnaround of vessels and the speedy transit of goods through the port;
- (b) regulating the recruitment and entry into and the discharge from the Scheme of dock workers and the allocation of registered dock workers to registered employers;
- (c) determining and keeping under review in consultation with the Administrative Body the number of registered employers and registered dock workers from time to time on the registers or records and the increases or reductions to be made in the numbers in any such registers or records;
- (d) keeping, adjusting and maintaining the employers' registers entering or re-entering therein the name of any dock employer and where circumstances so require, removing from the register the name of any registered employer, either at his own request or in accordance with the provisions of the Scheme;
- (e) keeping, adjusting and maintaining from time to time such registers or records, as may be necessary, of dock workers including any registers or records of dock workers who are temporarily not available for dock work and whose absence has been approved by the Administrative Body and, where circumstances so require, removing from any register or record the name of any registered dock worker either at his own request or in accordance with the provisions of the Scheme;
- (f) the grouping or regrouping of all registered dock workers into such groups as may be determined by the Board after consultation with the Administrative Body and thereafter reviewing the grouping of any registered dock worker on the application of the Administrative Body or of the registered dock worker;
- (g) making satisfactory provision for the training and welfare of registered dock workers including medical services, in so far as such provision does not exist apart from the Scheme;
- (h) levying and recovering from registered employers contributions in respect of the expenses of the Scheme;
- (i) making satisfactory provision for health and safety measures in places where dock workers are employed in so far as such provision does not exist apart from the Scheme;
- (j) borrowing or raising money and issuing debentures or other securities and, for the purpose of securing any debt or obligation, mortgaging or charging all or any part of the property of the Board.

(2) The income and property of the Board from whatever source derived shall be applied solely towards the objects of the Scheme and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise howsoever by way of benefit to the members of the Board; provided that nothing herein shall prevent the payment of reasonable and proper remuneration and expenses to any officer or servant of the Board or to any member of the Board in return for any services actually rendered to the Board, nor prevent the payment of interest at a reasonable rate on money lent or reasonable and proper rent for premises demised or let by any member to the Board.

(3) The Board shall cause proper accounts to be kept of the costs of operating the Scheme and of all receipts and expenses under the Scheme.

(4) The Board shall submit to the Central Government an annual report on the working of the Scheme and an audited balance sheet.

8. Functions of the Administrative Body.—Without prejudice to the powers and functions of the Board, the Administrative Body shall be responsible for the administration of the Scheme and shall in particular be responsible for—

- (a) the keeping, adjusting and maintaining the employers' register, entering or re-entering therein the name of any dock employer and, where circumstances so require, removing from the register the name of any registered employer, either at his own request or in accordance with the provisions of the Scheme;
- (b) the keeping, adjusting and maintaining from time to time such registers or records as may be necessary, of dock workers, including any register or record of dock workers who are temporarily not available for dock work and whose absence has been approved by the Administrative Body and, where circumstances so require, removing from the register or record the name of any registered dock worker either at his own request or in accordance with the provisions of the Scheme;
- (c) the employment and control of registered dock workers available for work when they are not otherwise employed in accordance with the Scheme;
- (d) the grouping or re-grouping of registered dock workers in accordance with instructions received from the Board in such groups as may be determined by the Board;
- (e) the allocation of registered dock workers who are available for work to registered employers and for this purpose the Administrative Body shall—
 - (i) be deemed to act as an agent for the employer,
 - (ii) make the fullest possible use of registered dock workers in the Reserve Pool,
 - (iii) keep the record of attendance, at call stands or control points, of registered dock workers,
 - (iv) provide for the maintenance of the records of employment and earnings,
 - (v) subject to the allotment of work by rotation under clause 21(3), follow the principle of seniority, i.e., a worker shall not be allocated unless all registered workers of the same category above him in the register have been allocated;
- (f) (i) the payment as agent of the registered employer to each daily worker of all earnings properly due to the worker from the employer, and the payment to such workers of all monies payable by the Board to those workers in accordance with the provisions of the Scheme;
- (ii) the payment of the employer's contribution to any scheme of insurance constituted under any Act in respect of daily workers and the custody and stamping of their insurance books or cards;
- (iii) the payment of the employer's contribution to any scheme of Provident Fund established for daily workers;
- (g) appointing, subject to budget provision, such officers and servants from time to time as may be necessary:

Provided that the creation of posts carrying a pay of Rs. 250 or over per month and appointment of persons to such posts shall be subject to the prior approval of the Board;

- (h) the keeping of proper accounts of the cost of operating the Scheme and of all receipts and expenses under it and making and submitting to the Board an annual report and audited balance-sheet;
- (i) the framing of budget annually and for getting it approved by the Board; and
- (j) such other functions as may from time to time be delegated to it by the Board.

9. Functions of the Special Officer.—(1) The Special Officer shall discharge all functions relating to disciplinary action against registered employers and daily workers and shall in particular be responsible for taking action under clauses 35, 36 and 37.

(2) The Board may entrust the Special Officer either of its own motion or at the instance of the Administrative Body such other functions as the Board may deem fit.

10. Maintenance of Registers, etc.—(1) **Employers' Register.**—(a) There shall be a register of employers.

(b) In so far as the application of the Scheme to stevedore labour is concerned, every stevedore, who has worked as a stevedore in the Port of Calcutta at any time during the preceding two years shall be entitled to be registered under the Scheme; but no such person shall be so entitled unless he applies for registration on or before the date fixed by the Board for this purpose.

(c) Persons other than those registered under sub-clause (b) shall not be registered as stevedores,

(i) unless the Board considers it expedient and necessary to do so; and

(ii) except subject to such conditions as the Board may in consultation with the Port Authority prescribe.

(d) A registration fee of Rs. 500 shall be payable to the Board by every stevedore.

(2) **Workers' Registers.**—(1) The registers shall be maintained in the forms devised by the Registration Committee and approved by the Board for the purpose.

(2) The registers of stevedore workers shall be as under, namely:—

(i) **Monthly Register.**—Register of workers who are engaged by each stevedore on contract on monthly basis and who are known as monthly workers.

(ii) **Reserve Pool Register.**—Register of workers other than those on the monthly register. This register shall include a pool of junior stevedore workers to fill casual vacancy in gangs. No vacancy occurring in the Reserve Pool Register shall be filled by the Administrative Body until the appropriate Employment Exchange has indicated its inability to supply suitable applicants.

11. Classification of workers in Registers.—(i) The Registration Committee shall arrange for the classification of workers by categories in the registers.

(ii) Stevedore labour shall be classified in the following categories:—

- (a) Deck Foremen.
- (b) Hatch-Foremen or Gunners.
- (c) Winchmen.
- (d) Sirdars.
- (e) Mates.
- (f) Senior Kamalias.
- (g) Junior Kamalias.
- (h) Senior Rollas.
- (i) Junior Rollas.

12. Fixation of number of workers on the register.—The total number of workers in each category shall be determined by the Board in consultation with the Port Authority.

13. Registration of existing and new workers.—(1) Any dock worker who, immediately before the coming into force of the Scheme, is in the employment of any employer to whom the Scheme applies, shall be eligible for registration.

(2) New workers will be selected for registration by the Registration Committee out of the list submitted by the Employment Exchange. The qualifications for such selection shall be age not exceeding forty years, physical fitness, capacity and/or experience. Preference will be given to Indian citizens.

(3) New workers to be selected for registration will be on probation for a period of three months before being placed on a permanent basis in the registers.

14. Transfer of Workers.—(1) A vacancy in any category of workers in a register shall ordinarily be filled by promotion of a worker from the next lower category.

(2) A vacancy in any category of monthly workers may be filled by transfer of a senior worker in the same or a superior category of the Reserve Pool workers only if no person is suitable for promotion from lower categories of monthly workers.

Explanation.—The criteria for promotion or transfer shall ordinarily be the following, *viz.*—

(a) seniority,

(b) merit and fitness for work in the category to which promotion is to be made,

(c) record of past service.

(3) If the services of a monthly worker are terminated by the employer he shall be entitled to registration in the Reserve Pool in a similar category and his previous service shall be reckoned for all benefits in the Reserve Pool and the employer shall transfer to the Board all benefits that have accrued to the worker in respect of previous service as if such service had not been terminated unless the Board decides that for some special reason the worker is unfit to be re-employed as a dock worker. The employer shall in particular contribute to the Board such amount as may be appropriate towards the worker's leave that may be due to him on the date of such transfer.

15. Medical Examination.—If the Administrative Body deems it necessary, a worker shall undergo free of charge medical examination by a Medical Board to be constituted by the Board.

16. Facilities for Training.—Adequate facilities for training shall be provided for workers by the Board.

17. Registration Fee.—A registration fee of Rupees two shall be payable to the Board by each worker:

Provided however that the fee for workers registered at the commencement of the Scheme shall be Rupee one.

18. Supply of Cards.—(1) Every registered worker shall be supplied, free of cost, with the following cards in the forms prescribed by the Board, namely:—

(i) Identity Card.

(ii) Attendance and Wage Card.

(2) In case of loss of a card, a fresh card will be issued but the cost thereof, which will be fixed by the Board, shall be payable by the worker concerned.

19. Surrender of Cards.—A worker's card shall be surrendered to the Administrative Body in the following cases and circumstances, namely:—

(a) when proceeding on leave,

(b) when retiring from service,

(c) when dismissed or discharged from service,

(d) when temporarily suspended,

(e) on death.

20. Employment of Workers.—(1) Workers on the Monthly Register attached to a registered employer shall be entitled to be employed by that employer in preference to any worker in the Reserve Pool Register.

(2) For work which cannot be done by those on the Monthly Register, workers on the Reserve Pool Register shall be employed.

21. Employment in Shifts.—(1) Workers will be employed in shifts.

(2) Workers will not ordinarily be employed in two consecutive shifts in a day and in no case will workers on the Monthly Register be employed on a second shift so long as workers in a similar category are available on the Reserve Pool Register for work in that shift.

(3) Workers of each category on the Reserve Pool Register shall be allotted work by rotation.

(4) Where work is carried on by a gang, the allotment of workers by rotation shall be by gangs

22. Filling up of Casual Vacancies.—Casual vacancies in the Monthly and Reserve Pool Gangs will be filled up in the following manner:—

When a tindal is absent, the senior man in the same gang will work as a tindal.

In the vacancies of workers in the gangs, workers from the Reserve Pool will be employed by rotation.

23. Guaranteed Minimum Wages.—A worker on the Reserve Pool Register shall be paid wages at least for twelve days in a month at the wage rate, inclusive of dearness allowance, appropriate to the category to which he belongs, even though no work is found for him for the minimum number of twelve days in a month. The days on which work is allotted to the worker shall be counted towards the twelve days mentioned above.

24. Attendance Wages.—Subject to the provisions of the Scheme, a worker on the Reserve Pool Register who is available for work but for whom no work is found shall be paid attendance wages at the rate of Rupee one per day for the days on which no work was found for him during a calendar month. Provided that no attendance wages will be payable for any day for which full wages, inclusive of dearness allowance, have been paid under clause 23 or otherwise or for which disappointment money is paid under clause 26.

25. Employment for a Shift.—No worker in the Reserve Pool Register shall be employed for a period of less than a shift and where the work for which a worker has been engaged is completed during the working period of the shift he shall undertake such other work in or at the same or another vessel or berth as may be required by the same employer for the remainder of the period and if no such other work is made available to him, he shall be paid for the entire shift.

26. Disappointment Money.—When a worker in the Reserve Pool presents himself for work and for any reason beyond the control of the employer, the work for which he has attended cannot proceed and no alternative work can be found for him and he is relieved within 2 hours of his attending for work, he will be entitled to disappointment money equal to half the wage rate, inclusive of dearness allowance, appropriate to the category to which he belongs. A worker detained for more than 2 hours shall be paid full wages inclusive of dearness allowance.

27. Appeal Tribunal.—(1) The Central Government shall appoint one or more Appeal Tribunals for the purposes of hearing appeals under the Scheme.

(2) The Appeal Tribunal shall consist of not more than three persons, who shall not be members of the Board

28. Registration Committee.—The Board may appoint one or more Registration Committees, to whom it may delegate such duties as it may think fit in relation to the registration both of dock workers and of employers of dock workers.

29. Obligations of registered dock workers.—(1) Every registered dock worker shall be deemed to have accepted the obligations of the Scheme.

(2) A registered dock worker in the Reserve Pool who is available for work shall be deemed to be in the employment of the Board.

(3) A registered dock worker who is available for work shall not engage himself for employment under a registered employer unless he is allocated to that employer by the Administrative Body.

(4) A registered dock worker available for work in the employment of the Board shall carry out the directions of the Administrative Body and shall—

- (a) report at such call stands or control points and at such times as may be specified by the Administrative Body and shall remain at such call stands or control points for such period, not exceeding one hour from the commencement of the shift, as may be so specified;
- (b) accept any employment in connection with dock work, whether in the category in which he has been registered or in any other category for which he is considered suitable by the Administrative Body.

(5) A registered dock worker who is available for work when allocated by the Administrative Body for employment under a registered employer shall carry out his duties in accordance with the directions of such registered employer and the rules of the port or place where he is working.

30. Obligations of registered employers.—(1) Every registered employer shall accept the obligations of the Scheme.

(2) A registered employer shall not employ a worker other than a worker who has been allocated to him by the Administrative Body in accordance with the provisions of clause 8(e).

(3) Unless otherwise directed by the Administrative Body a registered employer shall, on the engagement of a registered dock worker who is available for work, obtain his record book or wage card and stamp it in respect of each period of work and return it to him at the conclusion of his engagement.

(4) A registered employer shall in accordance with arrangements made by the Administrative Body, submit all available information of his current and future labour requirements.

(5) A registered employer shall, in accordance with directions given by the Administrative Body, lodge with the latter a return of the gross wages (including overtime and allowances and without deductions of any kind) due from him to each registered dock worker engaged by him in respect of the period covered by the return.

(6) A registered employer shall pay to the Administrative Body in such manner and at such times as the Board may direct the total amount of the gross wages due to daily workers specified in the return made under the preceding paragraph.

(7) A registered employer shall keep such records as the Board may require, and shall produce to such persons as may be designated by the Board upon reasonable notice all such records and any other documents of any kind relating to registered dock workers and to the work upon which they have been employed and furnish such information relating thereto, as may be set out in any notice or direction issued by or on behalf of the Board.

31. Restriction on employment.—(1) No person other than a registered employer shall engage for employment or employ any worker on dock work nor shall a registered employer engage for employment or employ a worker on dock work unless that worker is a registered dock worker.

(2) Notwithstanding the foregoing provisions of this clause—

(a) where the Administrative Body is satisfied that—

(i) dock work is urgently required to be done; and

(ii) it is not reasonably practicable to obtain a registered dock worker for that work.

the Administrative Body may, subject to any limitations imposed by the Board, allocate to a registered employer a person who is not a registered dock worker. In selecting such workers the local Employment Exchange organisation shall, as far as possible, be consulted.

(b) in the case referred to in sub-paragraph (a) the person so employed as aforesaid by a registered employer shall, for the purposes of clause 30(5), (6) and (7) and clause 33, be treated in respect of that dock work as if he were a daily worker.

32. Circumstances in which the Scheme ceases to apply.—(1) The Scheme shall cease to apply to a registered dock worker when his name has been removed from the register or record in accordance with the provisions of the Scheme.

(2) The Scheme shall cease to apply to a registered employer when his name has been removed from the employers' register in accordance with the provisions of the Scheme.

(3) Nothing in this clause shall affect any obligation incurred or right accrued during any time when the person was a registered dock worker or a registered employer.

33. Wages, allowances and other conditions of service.—It shall be an implied condition of the contract between a registered dock worker (whether monthly or daily), and a registered employer that—

- (a) the rates of wages, allowances, and overtime, hours of work, rest intervals, holidays and pay in respect thereof and other conditions of service shall be such as may be prescribed by the Board for each category of workers.
- (b) the fixation of wage periods, time for payment of wages and deductions from wages shall be in accordance with the provisions of the Payment of Wages Act, 1936.

34. Pay in respect of unemployment or underemployment.—(1) Subject to the conditions set out in this and the next following clause, when, in any wage period, a registered dock worker in the Reserve Pool is available for work but is not given employment or full employment, he shall be entitled to receive from the Board such amounts as may be admissible to him under clauses 23, 24 and 26.

(2) The conditions subject to which a registered dock worker is entitled to the said payment (if any) from the Board are that—

- (a) he attended as directed at the call stands or control points or was excused from attendance; and
- (b) his attendance or his excused attendance was recorded.

35. Disentitlement to payment.—(1) A registered dock worker available for work who while in the Reserve Pool fails without adequate cause to comply with the provisions of clause 29(4)(a) or (b), or fails to comply with any lawful order given to him by or on behalf of the Board, may be reported in writing to the Special Officer.

(2) A registered dock worker in the Reserve Pool available for work who, while in employment to which he has been allocated by the Administrative Body, fails without any adequate cause to comply with the provisions of clause 29(5) or fails to comply with any lawful orders given to him by his employer, may have his engagement terminated and may be returned to the Reserve Pool, and, whether or not he is so returned may be reported in writing to the Special Officer. When a registered dock worker is so returned to the Reserve Pool, his record book or wage card shall be returned to the Administrative Body.

(3) The Special Officer shall consider any written report received under paragraph (1) or (2) and if, after investigating the matter, he notifies the registered dock worker and the Administrative Body that he is satisfied that the registered dock worker has failed to comply with a lawful order as aforesaid, the registered dock worker shall not be entitled to any payment, or to such part of any payment under clause 34 as the Special Officer thinks fit in respect of the wage period in which such failure occurred or continues.

36. Disciplinary procedure.—(1) The Special Officer, on receipt of information, whether on a complaint or otherwise, that a registered employer has failed to carry out the provisions of the Scheme, and after investigating the matter, may take any of the following steps as regards that employer, that is to say he may—

- (a) give the registered employer a warning in writing;
- (b) subject to the approval of the Board and after one month's notice in writing given to the registered employer by the Special Officer inform the Administrative Body that the name of the registered employer shall be removed from the employers' register for such period as determined by the Board.

(2) A registered dock worker in the Reserve Pool who is available for work and fails to comply with any of the provisions of the Scheme, may be reported in writing to the Special Officer, who may, after investigating the matter and

without prejudice to and in addition to the powers conferred by clause 35, take any of the following steps as regards that worker, that is to say, he may—

- (a) determine that, for such period as he thinks proper, that worker shall not be entitled to any payment under clause 34;
- (b) give him a warning in writing;
- (c) suspend him without pay for a period not exceeding three days;
- (d) give him fourteen days' notice of termination;
- (e) dismiss him.

(3) Before any action is taken under sub-clause (1) or (2), the person concerned shall be given an opportunity to show cause why the proposed action should not be taken against him.

(4) The Administrative Body shall be informed simultaneously about the action taken under sub-clauses (1) and (2).

37. Termination of employment.—(1) The employment of a registered dock worker in the Reserve Pool who is available for work shall not be terminated by the Special Officer except—

- (a) by dismissal in the case of misconduct; or
- (b) by giving him fourteen days' notice in writing for any other justifiable cause; or
- (c) so as to enable the worker to be employed in accordance with the provisions of the Scheme.

(2) A registered dock worker in the Reserve Pool who is available for work shall not leave his employment with the Board except by giving fourteen days' notice in writing to the Board or except where he is to be employed in accordance with the provisions of the Scheme.

(3) Where the employment of a registered dock worker by the Board has been terminated under paragraph (1)(a) or (b), or under paragraph (2) by a notice given by him, his name shall forthwith be removed from the register or record by the Administrative Body.

38. Appeals to Appeal Tribunal.—(1) If a registered dock worker who is available for work is aggrieved by any order under which he—

- (a) is not entitled to any payment under clause 34 by reason of any of the grounds specified in clause 35 or 36; or
- (b) is suspended from the Scheme; or
- (c) is not properly grouped or regrouped in the register or record; or
- (d) is to be removed from the register or record under paragraphs (1) (a) and (3) of clause 37; or
- (e) is to be given a notice of termination of his employment in accordance with paragraph (1) (b) of clause 37:

he may, within seven clear days of the date of the order or, as the case may be, of the date of the receipt of the notice terminating his employment, prefer an appeal in writing to the Appeal Tribunal:

Provided that the Appeal Tribunal may, for reasons to be recorded, admit an appeal preferred after the expiry of seven days:

Provided further that no such appeal shall lie where due notice has been given of the removal of the name of the registered dock worker from the register or record in accordance with the instructions of the Board, if the ground of removal is that the registered dock worker falls within a class or description of dock workers whose names are to be removed from the register or record in order to reduce the size thereof:

Provided further, that an appeal shall lie where the registered dock worker alleges that he does not belong to the class or description of dock workers referred to in the preceding proviso.

(2) The Appeal Tribunal shall, as soon as practicable, hear and decide the appeal, and if the appeal is allowed, it shall have power to order that the appellant shall

be entitled to receive any payment or any part thereof which may be held to be due to him under clause 34 or that he shall be grouped in accordance with the decision of the Tribunal from such date as it may fix or that his name shall be restored in the register or record as from such date as it may fix. The Appeal Tribunal shall also have the power to vary, modify or alter the penalty imposed but it shall not have power to increase any penalty imposed or to impose a more severe penalty.

(3) An appellant shall not be entitled to be represented by a legal practitioner before the Appeal Tribunal, but he shall be entitled to be represented by a representative of the registered Trade Union of which he is a member or by a registered dock worker.

(4) The decision of a majority of an Appeal Tribunal shall be the decision of the Tribunal and shall be final and conclusive. Such decision shall be forthwith given effect to by the Board and the Administrative Body.

39. Appeal to Board.—(1) A registered employer who is aggrieved by an order,

(a) giving him a warning in writing under clause 36(1) (a),

(b) directing a notice to be given to him under clause 36(1) (b) that his name will be removed from the employers' register,

may within seven clear days of the date of the order or as the case may be, the date of the receipt of the notice of removal from the employers register, prefer an appeal to the Board, who shall forthwith refer the matter to the Central Government. The Central Government shall make such order on the appeal as it thinks fit.

(2) A stevedore or a worker who has been refused registration under clause 10(1) (b), clause 10(1) (c) or clause 13 as the case may be, shall have a right of appeal to the Board within seven clear days of the date of such refusal and if the original refusal is by the Board the appeal shall lie to the Appeal Tribunal.

(3) A registered dock worker in the Reserve Pool who is aggrieved by an order of the Administrative Body, made under clause 29 (4) (b), requiring him to undertake any work, which is not of the same category to which he belongs, may prefer an appeal to the Board within seven clear days of the date of such order.

40. Suspension of notice in case of certain appeals.—Where an appeal is lodged in accordance with the provisions of clause 38, the Appeal Tribunal may suspend the operation of the order appealed from (except where the order is of dismissal or of disentitlement under clause 35) pending the hearing and disposal of the appeal.

41. Cost of operating the Scheme.—(1) The cost of operating the Scheme shall be defrayed by payments made by registered employers to the Board in the manner following:—

Every registered employer shall pay to the Board—

(a) such amount, whether by way of percentage on the gross wages payable by him under clause 30 (6) or as otherwise agreed, together with and at the same time as the payment of those wages; and

(b) at the same time as the payment under sub-paragraph (a), such amount whether by way of percentage on the gross wages shown as due to monthly workers in the return made under clause 30 (5) or as otherwise agreed;

as the Board may in either case from time to time notify by public notice.

(2) In determining what payments are to be made by registered employers under paragraph (1) of this clause, the Board may fix different percentages for different categories of work or workers, provided that the percentages shall be so fixed that the like percentages will apply to all dock employers who are in like circumstances.

(3) The Board shall not sanction any levy exceeding fifty percent of gross wages without the prior approval of the Central Government.

(4) A registered employer shall on demand make a payment to the Board by way of deposit, or provide such other security for the purposes of the payment of the gross wages set out in clause 30 (6) and the percentage payments set out in paragraph (1) (a) and (b) of this clause, as the Board may consider necessary.

(5) The Administrative Body shall furnish from time to time to the Board all such statistical and other information as may reasonably be required relating to the operation and finance of the Scheme.

42. Penalties.—A contravention of clause 31 shall be punishable with imprisonment for a period not exceeding three months in respect of a first contravention or six months in respect of a subsequent contravention or with fine not exceeding five hundred Rupees in respect of a first contravention or one thousand Rupees in respect of any subsequent contravention, or with both imprisonment and fine as aforesaid.

THE SCHEDULE

[See clause 2(2)]

Classes or descriptions of dock work and dock workers to which the Scheme applies.

1. Stevedoring work other than coal work.
2. The following categories of stevedore workers:—
 - (I) Deck Foremen.
 - (II) Hatch-Foremen or Gunners.
 - (III) Winchmen.
 - (IV) Sirdars.
 - (V) Mates.
 - (VI) Senior Kamalias.
 - (VII) Junior Kamalias.
 - (VIII) Senior Rollas.
 - (IX) Junior Rollas.

[No. Fac. 74(1).]

S. NEELAKANTAM, Dy. Secy.

